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The American Political Science Review

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PREDICTING SUPREME COURT DECISIONS MATHEMATICALLY: A QUANTITATIVE ANALYSIS OF THE "RIGHT TO COUNSEL" CASES

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This study represents an attempt to apply quantitative methods to the prediction of human events that generally have been regarded as highly uncertain, namely, decisions by the Supreme Court of the United States. The study is designed to demonstrate that, in at least one area of judicial review, it is possible to take some decided cases, to identify factual elements that influenced the decisions, to derive numerical values for these elements by using a formula, and then to predict correctly the decisions of the remaining cases in the area specified. The analysis will be made independently of what the Court said by way of reasoning in these cases; it will rely only on the factual elements which have been emphasized by the justices in their opinions and on their votes to affirm or set aside convictions. Changes in Court personnel made no decisive difference in the pattern of judicial action in this area; so the analysis will not need to take into account the fact that twenty-five different justices have occupied the nine seats on the Court during the period covered, *i.e.*, the past quarter century. The cases are all those that involved the issue of "right to counsel" under the Fourteenth Amendment. Arranged in chronological order, the first half of the cases will be used to determine the formula, to derive the numerical values, and to make the predictions; the second half will be used to test the predictions.

The Supreme Court's decision in the first "Scottsboro Case" (*Powell v. Alabama*, 287 U.S. 45) in 1932 inaugurated an era of numerous, still continuing petitions for certiorari, asserting the invalidity of state criminal convictions on the ground that the defendants were effectively deprived of the aid of counsel in their trials, in violation of "due process of law." Undoubtedly, the majority opinion in *Powell v. Alabama* encouraged the expectation that the Court might, as it had done with free speech in the *Gitlow* case a few years earlier, incorporate the "right to counsel" provision of the Sixth Amendment into the "due process" clause of the Fourteenth Amendment as a mandatory obligation on the states. If this had happened, a clear and concise rule might have governed all subsequent cases. However, in actual experience the "incorporation" theory attracted the votes of only four justices, *i.e.*, Black, Douglas, Murphy, and Rutledge. The majority of the Court has adhered instead to the "fair trial" doctrine, holding in some cases that "due process" had been denied by the failure to provide the aid of counsel, and sustaining state convictions in other cases on the ground that the "very essence of a scheme of ordered liberty" had not been impaired. As a result, a notable recent treatise has characterized the state of the law in this area as follows:[1]

> The difficulties of discerning a logical or consistent pattern in the Court's application of the fair-trial rule have dismayed observers, who have condemned it as a "nebulous standard,"[2] a complex "ex post facto" standard,[3] and an "arbitrary and capricious" rule.[4] Obviously, it lacks the essential qualities of a good rule of law: clarity of meaning, facility of application, and satisfying results.

It is because of the difficulties of detecting a consistent pattern in these cases by conventional methods of qualitative appraisal that a quantitative method is used in this study; for such a pattern, concealed in qualitative evaluation, can nevertheless be identified in that way. To be sure, justices of the Supreme Court have said that "the due process clause is not susceptible of reduction to a mathematical formula,"[5] and ". . . whether a confession of a lad of fifteen is 'voluntary' and as such admissible, or 'coerced' and thus wanting in due process, is not a matter of mathematical determination."[6] Notwithstanding this skepticism, the Supreme Court's own appraisal of its position in state "right to counsel" cases provides the basis for the analysis here:[7]

> Some members of the Court think that where serious offenses are charged, failure of a court to offer counsel in state criminal trials deprives an accused of rights under the Fourteenth Amendment. They are convinced that the services of counsel to protect the accused are guaranteed by the Constitution in every such instance. See *Bute v. Illinois*, 333 U.S. 640, dissent, 677–79. Only when the

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[1] William M. Beany, *The Right to Counsel in American Courts* (Ann Arbor, 1955), p. 194. Footnotes in the quotation renumbered.

[2] See *Va. L. Rev.*, Vol. 33, p. 731 (Nov., 1947).

[3] See *So. Calif. L. Rev.*, Vol. 22, p. 259 (April, 1949).

[4] See J. R. Green, *Mich. L. Rev.*, Vol. 46, pp. 869, 898 (May, 1948).

[5] *Gibbs v. Burke*, 337 U.S. 773, 781 (1949) (per Reed, J.).

[6] *Haley v. Ohio*, 332 U.S. 596, 601 (1948) (Frankfurter, J., joining in reversal of judgment).

[7] *Uveges v. Pennsylvania*, 335 U.S. 437, 440–41 (1948) (per Reed, J.). Footnotes renumbered. Emphasis supplied.

accused refuses counsel with an understanding of his rights can the court dispense with counsel.[8] Others of us think that when a crime subject to capital punishment is not involved, each case depends on its own facts. See *Betts v. Brady*, 316 U.S. 455, 462. *Where the gravity of the crime and other factors—such as the age and education of the defendant,*[9] *the conduct of the court or the prosecuting officials,*[10] *and the complicated nature of the offense charged and the possible defense thereto*[11]—render criminal proceedings without counsel so apt to result in injustice as to be fundamentally unfair, the latter group holds that the accused must have legal assistance under the Amendment whether he pleads guilty or elects to stand trial, whether he requests counsel or not. Only a waiver of counsel, understandingly made, justifies trial without counsel.

The major categories of pivotal factors thus identified by the Court provide the framework for the analysis. In the quoted excerpt of its opinion, the Court related these factors to non-capital cases. Actually, they have been dominant considerations in capital cases too. Consequently, capital as well as non-capital cases will be analyzed in the same terms. For the purpose of the analysis, a list of pivotal factors, which appear in various combinations in the cases, has been compiled (see Table I, page 4).

The task of the analysis is to develop a formula by which numerical values for these factors can be computed, to obtain composite numerical values for the combinations of them that appear in the cases, and to find a breaking point (or zone) which separates the composite values of the cases where convictions are sustained from those that are set aside. This would of course be easier if each case turned on only one factor, or if each justice voted separately on each issue in a case. Lacking such aid, a system of multiple correlation must be developed with the objective data available.

I. THE DETERMINATION OF THE QUANTITATIVE VALUES

The quantitative concepts used in the analysis are linear, along a positive scale. The higher the assigned numerical value, the more serious has been the disadvantage of the defendant in the state criminal proceeding, and the more favorable are the prospects for a reversal of his conviction by the Supreme Court. This characteristic applies to the numerical value of every pivotal factor as well as to every composite value (the sum

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[8] See *Rice v. Olson*, 324 U.S. 786, 788–89; *Walker v. Johnston*, 312 U.S. 275, 286; *Johnson v. Zerbst*, 304 U.S. 458, 468.

[9] See *e.g.*, *Wade v. Mayo*, 334 U.S. 672, 683–84; *De Meerleer v. Michigan*, 329 U.S. 663, 664–65; *Betts v. Brady*, *supra*, at 472, *Powell v. Alabama*, 287 U.S. 45, 51–52, 71.

[10] See *e.g.*, *Townsend v. Burke*, 334 U.S. 736, 739–41; *De Meerleer v. Michigan*, *supra* at 665; *Smith v. O'Grady*, 312 U.S. 329, 332–33.

[11] See *Rice v. Olson*, 324 U.S. 786, 789–91.

TABLE I. PIVOTAL FACTORS IN "RIGHT TO COUNSEL" CASES

Gravity of the crime:

- Maximum penalty of capital punishment.
- Maximum penalty of life imprisonment or its equivalent.
- Maximum penalty of twenty or thirty years imprisonment, with or without addition or substitution of a monetary fine.
- Maximum penalty of five or ten years imprisonment, with or without addition or substitute of a monetary fine.

Personal handicaps of the defendant:

- Youth and concomitant immaturity.
- Illiteracy, subnormal education, ignorance of English, mental incapacity, or limited contact with the prevailing culture pattern (*e.g.*, Indian living on a reservation).
- No previous experience in court or unfamiliarity with court procedure despite previous convictions.

Procedural irregularities in the absence of counsel:

- Arraignment without the assistance of counsel.
- No assistance of counsel between the arraignment and the trial or the hearing on the plea of guilty.
- No assistance of counsel at the trial or at the hearing on the plea of guilty.
- No assistance of counsel at the time of sentencing.
- No assistance of counsel at any other phase in the proceeding.

Denials of counsel:

- No advice of the "right to counsel," no inquiry as to the desire to have counsel, no offer of counsel, or any combination of these factors.
- Request for assigned counsel denied.
- Opportunity of consultation with own counsel denied.
- No explicit waiver of the "right to counsel."

Other irregularities:

- Detention incommunicado, without contact with relatives or friends.
- Detention and trial in a hostile environment or under inflammatory publicity.
- Deception of the defendant by a distorted and misleading presentation of charges.
- No explicit presentation of charges to the defendant.
- Coercion or intimidation of the defendant to plead guilty.
- Consequences of the plea of guilty not explained to the defendant.
- Request for additional time for consultation with counsel and for the preparation of the defense denied.
- Accelerated trial.
- Procedural or substantive error during the trial or at the time of sentencing.

Complexity of the issue:

- Jurisdictional issue.

of the numerical values of the pivotal factors in any case). Accordingly, a pivotal factor which seriously impairs a fair state criminal proceeding must have a higher numerical value than one less detrimental to the defendant. Similarly, a case which, in its total effect, shows the defendant to be at a greater disadvantage in the state criminal proceeding must have a higher composite value than one which exhibits less injurious consequences for him. So a composite value of zero would represent the "perfect proceeding," and the higher the composite value, the more extensive has been the departure from the essentials of a "fair trial."

Conceivably, numerical values could be assigned to the pivotal factors arbitrarily on the basis of some generally accepted notions about their relative importance. Since the purpose here, however, is to predict the Court's action, values must be derived objectively from the Court's own reaction to them in the past. For this reason, the chronologically first half of the cases will be used as the source materials and, as already indicated, the chronologically second half will be used as the testing ground. The cases, with their outcomes, are listed in Tables II and III.

TABLE II. "RIGHT TO COUNSEL" CASES: THE SOURCE GROUP (1932–47)

Powell v. Alabama, 287 U.S. 45 (1932)	pro*
Avery v. Alabama, 308 U.S. 444 (1940)	con
Smith v. O'Grady, 312 U.S. 329 (1941)	pro
Betts v. Brady, 316 U.S. 455 (1942)	con
Williams v. Kaiser, 323 U.S. 471 (1945)	pro
Tomkins v. Missouri, 323 U.S. 485 (1945)	pro
House v. Mayo, 324 U.S. 42 (1945)	pro
White v. Ragen, 324 U.S. 760 (1945)	dismissed†
Rice v. Olson, 324 U.S. 786 (1945)	pro
Hawk v. Olson, 326 U.S. 271 (1945)	pro
Canizio v. New York, 327 U.S. 82 (1946)	con
Carter v. Illinois, 329 U.S. 173 (1946)	con
De Meerleer v. Michigan, 329 U.S. 663 (1947)	pro
Foster v. Illinois, 332 U.S. 134 (1947)	con

* The designations "pro" and "con" indicate whether the decision of the Supreme Court went for or against the petitioner, the defendant in the state criminal proceeding.

† Counted as "pro," since the Supreme Court, though it dismissed the case on jurisdictional grounds, clearly stated that the petitioner's allegations made out a violation of a constitutional right.

The derivation of the numerical values of the pivotal factors involves the computation, in three stages, of "preliminary values," of "intermediary values," and of "final values."

The Preliminary Values. The preliminary value of a pivotal factor is derived from the case in which, by inspection, it occupies its most effective position, *i.e.*, the case in which the fewest other pivotal factors are involved, and in which the decision is in favor of the petitioner (the original defendant).[12] In such a case the factor under investigation may be supposed to exercise its greatest relative influence because it contributes to a reversal of the petitioner's conviction with the least "assistance" from other factors.

The preliminary value for a given factor is obtained by making temporarily the initial minimum assumption (contrary to fact and subject to later correction) that, as the votes of all justices are equal, so the weights of all factors are equal in the minds of the justices favoring the petitioner in the case where the given factor is most influential. On this assumption, a part of the vote of a justice is allocated to that factor by dividing the number of votes favorable to the petitioner by the total number of factors involved in the case; the result is the preliminary value (pv). For example, *Hawk v. Olson* is the controlling case for computing the preliminary value of "no explicit waiver of right to counsel," because it is the case, involving that issue and decided in favor of the petitioner, in which the least number of other pivotal factors appear. The vote of the justices was 8–0 and the total number of pivotal factors in the case is 7. Consequently, the preliminary value of "no explicit waiver of right to counsel" is 8 divided by 7, or 1.14. This process of computation is applied to all pivotal factors. Table IV gives the complete list of preliminary values.

TABLE III. "RIGHT TO COUNSEL" CASES: THE TEST GROUP (1947–56)

Gayes v. New York, 332 U.S. 145 (1947)	con
Marino v. Ragen, 332 U.S. 561 (1947)	pro
Bute v. Illinois, 333 U.S. 640 (1948)	con
Wade v. Mayo, 334 U.S. 672 (1948)	pro
Gryger v. Burke, 334 U.S. 728 (1948)	con
Townsend v. Burke, 334 U.S. 736 (1948)	pro
Uveges v. Pennsylvania, 335 U.S. 437 (1948)	pro
Gibbs v. Burke, 337 U.S. 773 (1948)	pro
Quicksall v. Michigan, 339 U.S. 660 (1950)	con
Palmer v. Ashe, 342 U.S. 134 (1951)	pro
Stroble v. California, 343 U.S. 181 (1952)	con
Chandler v. Fretag, 348 U.S. 3 (1954)	pro
Massey v. Moore, 348 U.S. 105 (1954)	pro
Herman v. Claudy, 350 U.S. 116 (1956)	pro

Evidently, the preliminary values are only a starting point, for the data and assumption on which they rest make no allowance for any differentiation in relative importance among several pivotal factors in a case. Refinements are possible and necessary in order to utilize the remaining data available, and they permit the calculation of intermediary values.

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[12] If a factor appears only in cases decided against the petitioner (this situation occurs only in one instance), the preliminary value is derived from the case in which the largest number of dissenting votes support the claim of the petitioner.

The Intermediary Values. The pivotal factors in different cases exhibit considerable variety in numbers and combinations. In an adequate analysis, the final value of a factor must allow for its complex relations to the other factors in all cases in which it appears. It is necessary next, therefore, to compute an intermediary value for the pivotal factor in every case in which it is involved (in the source group, that is, Table II), with the objective of providing a basis for the computation of the final value.

The purpose of the intermediary value is to indicate the impact of the pivotal factor in hypothetical isolation, while at the same time accounting fully for the conjunctive effect of the other factors involved in the case. In principle, this is accomplished for a particular factor in any decided case by subtracting from the preliminary value previously obtained for that factor the sum of the preliminary values of the other factors involved in the case, and then multiplying the result by the number of supporting justices' votes in the case counted for the factor in question. However, an attempt to do this directly leads to technical mathematical difficulties, because in any case containing numerous factors a minus quantity is likely to be obtained—the product runs off the scale stipulated at the beginning—and negative results cannot be interpreted. To overcome this difficulty in the process of calculating intermediate values, the preliminary value of the particular factor must be blown up, and the preliminary values of the other factors in the case be shrunk, in such a fashion as to ensure a positive value for the result without disturbing the essential proportions among them. The following formula is appropriate to that end, and has been used for computing an intermediary value of every pivotal factor in every case in which the factor appears:

$$iv = s[10\sqrt{pv_{pf\,\mathrm{inv.}}} + 5 - \tfrac{1}{10}\,(\text{sum total of } pv\text{'s of other } \boldsymbol{pf}\text{'s in case})^2]$$

In this formula "*iv*" designates the intermediary value of the pivotal factor under investigation in the case being examined; "*s*" denotes the number of votes of justices who support the claim of the petitioner in the case; "$pv_{pf\ \mathrm{inv.}}$" represents the preliminary value of the pivotal factor under investigation; and the terms in parentheses, which are squared, represent the sum total of the preliminary values ("*pv's*") of the other pivotal factors ("*pf's*") in the case. By substituting the applicable numerical values for the symbols in the formula, the intermediary values are obtained. For example, the pivotal factor "no explicit waiver of right to counsel" is encountered in twelve of the source group of cases. The chronologically first case in which it appears is *Powell v. Alabama.* Since the decision there was 7–2 in favor of the petitioner, "*s*" is 7. The preliminary value of "no explicit waiver of right to counsel" ("$pv_{pf\ \mathrm{inv.}}$"), as computed earlier, is 1.14. The preliminary values of the other pivotal factors in the case, *i.e.*, "crime subject to capital punishment," "youth," "illiteracy," etc., are 1.14, 0.78, 0.78, etc., respectively. Substituting these numerical values, the formula yields the intermediary value of "no explicit waiver of right to counsel" in the case of *Powell v. Alabama.* Using the same procedure for the other eleven cases, the other intermediary values of "no explicit waiver of right to counsel" are computed. Similar computations determine the intermediary value of every pivotal factor in every case in which the factor appears.

The necessary technical modifications of the preliminary values, to avoid minus quantities, are made by resorting to the following procedural steps: (1) drawing the square root of the preliminary value of the pivotal factor under investigation and multiplying it by 10;[13] (2) squaring the total of the preliminary values of the collateral pivotal factors and dividing it by 10;[14] and (3) adding a constant in the amount of 5 to the modified preliminary value of the pivotal factor under investigation.[15] These steps are incorporated in the formula for the computation of the intermediary values.

The Final Values. It will be observed that there are as many intermediary values for any particular factor as there are cases in the source group in which the factor appears. For purposes of predicting future cases, however, a single composite value for the factor is needed, to represent its average expected impact as an element favorable to the reversal of the conviction. Accordingly, the final value ("*fv*") of a pivotal factor is obtained by computing the arithmetical average of all its intermediary values. This yields the following table of final values (the designation of categories of pivotal factors is omitted and definitions are condensed):

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[13] Most preliminary values are decimal fractions less than 1 (see Table IV). Since the square root of a fraction less than 1 is larger than the fraction itself, the preliminary value of the pivotal factor under investigation is enlarged by drawing the square root, and it is further enlarged by multiplication by 10. The enlargement retains the original mathematical characteristic of the preliminary value and, at the same time, helps to avoid negative values in the process of the subsequent deduction.

[14] The square, divided by 10, of any number larger than 0 and smaller than 10—the numerical range which includes almost all totals of the preliminary values of the collateral factors—is a positive quantity smaller than the number itself. This operation preserves the proper reducing effect of the collateral pivotal factors on the factor under investigation, but moderates it, again in the interest of avoiding negative values.

[15] This final step is still necessary to prevent the occurrence of negative values in cases in which relatively many pivotal factors are involved. The permissible minimum for such a constant is 5, dictated by the case of *De Meerleer v. Michigan,* which—with a smaller constant than 5—would yield negative intermediary values.

TABLE IV. PRELIMINARY AND FINAL VALUES OF THE PIVOTAL FACTORS

Pivotal Factors:	*pv*	*fv*
Crime subject to capital punishment	1.14	51.8
Crime subject to life imprisonment, etc.	0.75	29.9
Crime subject to twenty or thirty years imprisonment, etc.	0.73	25.6
Crime subject to five or ten years imprisonment, etc.	0.56	19.2
Youth, etc.	0.78	33.7
Illiteracy, etc.*	0.78	31.1
No previous experience in court, etc.	1.14	50.1
Arraignment without the assistance of counsel	1.14	51.8
No assistance of counsel between arraignment and trial, etc.	1.14	59.4
No assistance of counsel at the trial, etc.	0.88	40.9
No assistance of counsel at the time of sentencing	0.88	38.0
No assistance of counsel at any other phase of the proceeding*	0.14	5.2
No advice of the "right to counsel," etc.	0.88	43.7
Request of assigned counsel denied	0.78	43.7
Opportunity of consultation with own counsel denied	0.73	31.2
No explicit waiver of the "right to counsel"	1.14	56.5
Detention incommunicado, etc.	0.78	32.5
Detention and trial in a hostile environment, etc.	0.78	53.9
Deception of the defendant, etc.	0.75	31.5
No explicit presentation of charges	0.75	31.5
Coercion or intimidation to plead guilty	1.14	68.3
Consequences of the plea of guilty not explained	0.69	18.9
Request of additional time, etc., denied	1.14	51.2
Accelerated trial	0.75	26.9
Procedural or substantive error, etc.*	0.56	14.2
Jurisdictional issue	0.56	25.2

* If several manifestations of this factor appear in a case, multiple numerical values are used.

Casual inspection of this table checks with some common sense impressions. For example, "crime subject to five or ten years imprisonment" shows a lower numerical value than "crime subject to capital punishment." If it surprises an observer to find that "no assistance of counsel at the trial" rates as less serious than "no assistance of counsel between arraignment and trial," this result is actually corroborated by the explicit statement of the Court in *Powell v. Alabama*:[16]

> . . . during perhaps the most critical period of the proceedings against these defendants, that is to say from the time of their arraignment until the beginning of their trial, when consultation, thorough-going investigation and preparation were vitally important, the defendants did not have the aid of counsel in any real sense. . . .

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[16] 287 U.S. 45, at 57.

II. THE APPLICATION OF THE QUANTITATIVE VALUES

The predictive device toward which this analysis has led is the composite value ("*cv*") to be assigned to a case as a whole. It is the sum total of the final values of the pivotal factors appearing in the case. The higher the composite value of the case, the more detrimental to the interests of the defendant has been the state criminal proceeding, in the sense of the potential penalty, of the disadvantages in his status, and—most important—in the sense of procedural inadequacies. On the basis of the computed final values of the pivotal factors, the following composite values for the source group of cases are obtained:

TABLE V. "RIGHT TO COUNSEL" CASES: COMPOSITE VALUES OF THE SOURCE GROUP

Decisions for the petitioner (the original defendant)	*cv*	Decisions against the petitioner (the original defendant)	*cv*
Powell v. Alabama	412.7	Avery v. Alabama	153.1
Smith v. O'Grady	491.3	Betts v. Brady	340.6
Williams v. Kaiser	435.9	Canizio v. New York	292.5
Tomkins v. Missouri	392.2	Carter v. Illinois	260.5
House v. Mayo	487.7	Foster v. Illinois	370.4
White v. Ragen*	490.7		
Rice v. Olson	430.1		
Hawk v. Olson	389.1		
De Meerleer v. Michigan	478.2		

* See dagger note, Table II.

A pattern of consistency in the first half of the cases is apparent. Every case decided in favor of the petitioner has a higher composite value than any case decided against the petitioner. The case with the lowest composite value among those decided in favor of the petitioner is *Hawk v. Olson*, with a composite value of 389.1. The case with the highest composite value among those decided against the petitioner is *Foster v. Illinois*, with a composite value of 370.4. Extending this pattern to the second half of the cases, the following predictions can be made: *Any composite value equal to or higher than 389.1 will indicate a decision in favor of the petitioner; any composite value equal to or lower than 370.4 will indicate a decision against the petitioner.* Since the first half of the cases do not supply any composite values between 370.4 and 389.1, no specific predictions are possible within this zone. However, one general prediction can be made here, as well as about all composite values: every case decided in favor of the petitioner will have a higher composite value than any case decided against the petitioner. One other observation seems warranted: the composite values at the dividing zone are so large in comparison with the final value of any single pivotal factor that no conviction stands a chance of being set aside unless a considerable number of factors are present in combination.

To test the predictions, it is only necessary to compute the composite values of the second half of the cases by adding up for each case the final values of the applicable pivotal factors derived from the first half of the cases:

TABLE VI. "RIGHT TO COUNSEL" CASES: COMPOSITE VALUES OF THE TEST GROUP

Decisions for the petitioner (the original defendant)	*cv*	Decisions against the petitioner (the original defendant)	*cv*
Marino v. Ragen	457.0	Gayes v. New York	299.5
Wade v. Mayo	399.7	Bute v. Illinois	366.0
Townsend v. Burke	399.3	Gryger v. Burke	334.4
Uveges v. Pennsylvania	422.9	Quicksall v. Michigan	320.2
Gibbs v. Burke	380.5	Stroble v. California	116.1
Palmer v. Ashe	443.7		
Chandler v. Fretag	448.4		
Massey v. Moore	378.2		
Herman v. Claudy	591.5		

The results bear out the predictions. Every case with a composite value higher than 389.1 was decided in favor of the petitioner, and every case with a composite value lower than 370.4 was decided against the petitioner. Two cases, *Gibbs v. Burke* and *Massey v. Moore* (with composite values of 380.5 and 378.2, respectively), are within the indeterminate zone, and serve to narrow it for predictions in the future. Since both cases were decided in favor of the petitioner, the persistence of a consistent pattern in terms of two distinct numerical ranges has been demonstrated: one, from 116.1 to 370.4, encompasses all cases decided against the petitioner; the other, from 378.2 to 591.5, covers all cases decided in his favor.

It appears that, in at least this area of judicial review, quantitative analysis discloses a consistency of Court action concealed in conventional qualitative interpretation. The results indicate that the Court has been willing to tolerate factors detrimental to the interests of the defendant in state criminal proceedings up to a certain critical point, located within the zone separating the numerical ranges of the composite values here identified. Beyond that critical point, the Court has invalidated the state criminal proceeding as deficient in the essentials of a "fair trial." It should not be inherently surprising that a gradually changing group of justices, acting over the years in an institutional as well as an intellectual tradition, should, when confronted with the necessity of saying yes or no in the presence of a complex body of competing considerations that are individually recurrent, behave according to statistical regularities of which they are unaware, and which they may, as has been seen, emphatically disavow.

The predictions made here could be verified because the test cases used have already been decided. Evidently, the same process, and, it is tempting to suppose, the same numerical values, can be applied to cases still to come, for the pivotal factors can be identified in the briefs and in the records made in the state courts below. It will be interesting to watch. But it would claim too much to say that the method promises to dispense with the need for lawyers to argue appellate cases. Prudence cautions that people sometimes behave differently when they know what conduct is expected of them.

In conclusion, it also is tempting to suppose that the method used in this study may be extended to other areas of judicial review. It is a prerequisite that a sizeable group of related cases be available for analysis, and that the pivotal factors in the varying situations they present be susceptible of fairly objective identification. In general, it may be ventured that quantitative analysis in cases involving other procedural civil rights, *e.g.*, protection against "unreasonable searches and seizures," against "coerced confessions," *etc.*, promises to be successful. On the other hand, some doubt has to be expressed about applying this method effectively to cases involving substantive civil rights, such as freedom of speech and freedom of religion. Procedural civil rights cases generally present a concrete differentiation of factual elements, such as the pivotal factors that have been identified here in the "right to counsel" cases. Although these factual elements are stated qualitatively, they can be reduced—as demonstrated by this study—to quantitative terms. On the other hand, substantive civil rights cases tend to be dominated by less tangible considerations, not so readily classifiable. At the present stage of quantitative analysis, the concepts that appear in the context of substantive civil rights cases do not seem to be adaptable to quantitative interpretation.

MACHIAVELLI'S INTENTION: *THE PRINCE**

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Many writers have attempted to describe the intention of *The Prince* by using the term "scientific." This description is defensible, and even helpful, provided it is properly understood. The present article is meant to prepare such an understanding.

I. The Prince *combines the characteristics of a treatise and a tract for the times.*

Let us begin at the beginning. In the Epistle Dedicatory Machiavelli gives three indications of the subject-matter of the book: he has incorporated into it his knowledge of the actions of great men both modern and ancient; he dares to discuss princely government and to give rules for it; he possesses knowledge of the nature of princes. As appears from the Epistle Dedicatory, from the book itself, and from what the author says elsewhere,[1] knowledge of the actions of great men, *i.e.*, historical knowledge, supplies only materials for knowledge of what princely government is, of the characteristics of the various kinds of principalities, of the rules with which one has to comply in order to acquire and preserve princely power, and of the nature of princes. It is only knowledge of the latter kind that *The Prince* is meant to convey. That kind of knowledge, knowledge of the universal or general as distinguished from the individual, is called philosophic or scientific. *The Prince* is a scientific book because it conveys a general teaching that is based on reasoning from experience and that sets forth that reasoning. That teaching is partly theoretical (knowledge of the nature of princes) and partly practical (knowledge of rules with which the prince has to comply).

In accordance with its character as a scientific, and not an historical book, only three out of twenty-six chapter headings contain proper names.[2] When referring to *The Prince* in *The Discourses*, Machiavelli calls the former a "treatise."[3] For the time being, we shall describe *The Prince* as a treatise, meaning by that a book that sets forth a general teaching of the character indicated. To the extent that it is a treatise, it has a lucid plan and its argument proceeds in a straight line without either ascending or descending. It consists at first sight of two parts; the first sets forth the science or the art of princely government, while the second takes up the time honored question of the limits of art or prudence—that is, the relation of art or prudence to chance in the management of governmental affairs. More particularly, *The Prince* consists of four parts: 1) the various kinds of principalities (chs. 1–11); 2) the prince and his enemies (chs. 12–14); 3) the prince and his subjects or friends (chs. 15–23);[4] and 4) prudence and chance (chs. 24–26). We may go a step further and say that *The Prince* at first sight appears to be not only a treatise but even a scholastic treatise.

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* This is a chapter from a book on Machiavelli being written for publication by the University of Chicago Press.

[1] Letter to Vettori, December 10, 1513. Figures in parenthesis hereafter indicate the pages of the edition of Machiavelli's *Opere* by Flora and Cordiè (Mondadori, Milan, 1949).

[2] Of the 142 chapter headings of *The Discourses*, 39 contain proper names.

[3] *Discourses*, Bk. III, chs. 1 (p. 234), 19 and 42; *cf.* Bk II, ch. 20, beginning.

At the same time, however, the book is the opposite of a scientific or detached work. While beginning with the words "All states, all dominions which have had and have sway over men," it ends with the words "the ancient valor in Italian hearts is not yet dead." It culminates in a passionate call to action—in a call addressed to a contemporary Italian prince, Lorenzo de'Medici of Florence, that he should perform the most glorious deed possible and necessary then and there. It ends like a tract for the times. For the last part deals not merely with the general question of the relation of prudence and chance. It is concerned with the accidental also in another sense of the term. The chapters surrounding the explicit discussion of the relation between prudence and chance (ch. 25) are the only ones whose headings indicate that they deal with the contemporary Italian situation. *The Prince* is not the only classic of political philosophy which is both a treatise and a tract for the times. It suffices to refer to Hobbes' *Leviathan* and Locke's *Civil Government*. But the case of *The Prince* is not typical: there is a striking contrast between the dry, not to say scholastic, beginning and the highly rhetorical last chapter which ends in a quotation from a patriotic poem in Italian. Could Machiavelli have had the ambition of combining the virtues of scholasticism with those of patriotic poetry? Is such a combination required for the understanding of political things? However this may be, the contrast between the beginning of *The Prince*, or even its first twenty-five chapters, and its end, forces us to modify our remark that the argument of the book proceeds in a straight line without ascending or descending. By directly contrasting the beginning and the end, we become aware of some kind of ascent.

To the extent that *The Prince* is a treatise, Machiavelli is an investigator or a teacher; to the extent that it is a tract for the times, he assumes the role of an advisor, if not of a preacher. He was anxious to become the advisor of the addressee of *The Prince* and thus to rise from his low, even abject, condition.[5] The movement of *The Prince*, indeed, is an ascent in more than one sense; and it is not simply an ascent.

In contrast with *The Discourses*, *The Prince* comes first to sight as a traditional or conventional treatise. But this first appearance is deliberately deceptive. The anti-traditional character of *The Prince* becomes explicit shortly after the middle of the book, and after remaining explicit for some time, it recedes again. Hence the movement of *The Prince* may be described as an ascent followed by a descent. Roughly speaking, the peak is in the center. This law is prefigured in the first part of the book (chs. 1–11): the highest theme of this part (new principalities acquired by one's own arms and virtue) and the grandest examples (Moses, Theseus, Romulus, Cyrus) are discussed in chapter 6, which is literally the central chapter of the first part.

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[4] *Cf. Prince*, ch. 15, beginning.

[5] *Cf.* the Epistle Dedicatory of *The Prince*.

II. THE PRINCE *combines a traditional surface with a revolutionary center.*

Let us follow this movement somewhat more closely. At first sight *The Prince* belongs to the traditional genre of *Mirrors of Princes*, which are primarily addressed to legitimate princes; and the most familiar case of the legitimate prince is the undisputed heir. Machiavelli almost opens *The Prince* by following custom in calling the hereditary prince the "natural prince." He suggests that the natural is identical with the established or customary, the ordinary or the reasonable; or that it is the opposite of the violent. In the first two chapters he uses only contemporary or almost contemporary Italian examples: we do not leave the dimension of the familiar. We cannot help noting here that in *The Discourses* which open with his declaration that he will communicate therein new modes and orders, the first two chapters are devoted to the remote beginnings of cities and states: we transcend immediately the dimension of the familiar. In the third chapter of *The Prince*, he continues to speak of "the natural and ordinary" and "the ordinary and reasonable" but he now makes it clear that the natural endangers the established, favors its disestablishment, or, more generally stated, that the natural and ordinary stands in a certain tension to the customary: since the desire for acquisition is "natural and ordinary," the destruction of "natural princes," "the extinction of ancient blood," by an extraordinary conqueror is perhaps more natural than the peaceful and smooth transition from one ordinary heir to another.[6] In accordance with this step forward, foreign and ancient examples come to the fore: the Turks and above all the Romans appear to be superior to the Italians and even to the French. Provoked by the remark of a French Cardinal that the Italians know nothing of war, Machiavelli felt justified in retorting, as he tells us here, that the French know nothing of politics: the Romans, whose modes of action are discussed in the center of the chapter, understood both war and politics. Furthermore he transcends the Here and Now also by referring to a doctrine of the physicians (for medicine is an achievement of the ancients),[7] and by opposing the wise practice of the Romans to "what is everyday in the mouth of the sages of our times." But he is not yet prepared to take issue with the opinion, held by more than one contemporary, that faith must be kept. In chapters 4 through 6, ancient examples preponderate for the first time. Chapter 6 is devoted to the most glorious type of wholly new princes in wholly new states, *i.e.*, to what is least ordinary and most ancient. The heroic founders discussed therein acquired their position by virtue, and not by chance, and their greatness revealed itself by their success in introducing wholly new modes and orders which differed profoundly from the established, familiar and ancient. They stand at the opposite pole from the customary and old established for two opposite reasons: they were ancient innovators, ancient enemies of the ancient. Chapter 6 is the only chapter of *The Prince* in which Machiavelli speaks of prophets, *i.e.*, of men to whom God speaks. In the same chapter the first Latin quotation occurs. Compared with that chapter, the rest of the first part marks a descent. The hero of chapter 7 is Cesare Borgia who acquired his principality by means of chance. He is presented to begin with as simply a model for new princes. But, to say nothing of the fact that he failed because of a grave mistake which he had committed, he was not a wholly new prince in a wholly new state: he is a model for those new princes who tried to make changes in ancient orders by means of new modes, rather than for the new princes who, like the heroes of chapter 6, tried to introduce wholly new modes and orders. Accordingly, the emphasis shifts from here on to modern examples.[8] As for chapters 8 through 11, it suffices to note that even their chapter headings no longer contain references to new princes; the princes discussed therein were at most new princes in old states. The last two chapters of the first part, like the first two chapters, contain only modern examples, although the last two include examples other than modern Italian.

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[6] We are thus not unprepared to find that the most extraordinary conqueror, Alexander (the Great), is mentioned twice in the heading of the following chapter.

[7] *Discourses*, Bk. I, preface.

The second part (chs. 12–14) marks an ascent compared with the end of the first part. The first part had ended with a discussion of ecclesiastical principalities which as such are unarmed. We learn now that good arms are the necessary and sufficient condition for good laws.[9] As Machiavelli indicates throughout the headings of chapters 12 through 13, he ascends in these chapters from the worst kind of arms to the best. We note in this part an almost continuous ascent from modern examples to ancient ones. This ascent is accompanied by three references to the question as to whether modern or ancient examples should be chosen; in the central reference it is suggested that it would be more natural to prefer ancient examples.[10] Machiavelli now takes issue not only with specific political or military errors committed by the "sages of our time," but with his contemporary Savonarola's fundamental error (without however mentioning his name): Savonarola erroneously believed that the ruin of Italy was caused by religious, and not by military sins. He refers in this fairly short part (about ten pages) six times to ancient literature while he had referred to it in the considerably more extensive first part (about thirty-seven pages) only twice. Only in the second part does he come close to referring deferentially to the highest authorities of political or moral thought. He refers, not indeed to the *New Testament*, but to the *Old*, and not then to what the *Old Testament* says about Moses but to what it says about David, and not to what it says about David literally but to what it says about David, or in connection with David, figuratively. And again, he refers, not to Aristotle or Plato, but to Xenophon, whom he regarded however as the author of the classic *Mirror of Princes*.

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[8] The tacit emphasis on ancient examples in chapter 9 has a special reason. It draws our attention to the impropriety of discussing in *The Prince* the most important modern example of "civil principalities" *i.e.*, the rule of the Medici. Machiavelli leaves it at discussing the ancient counterpart: Nabis of Sparta. *Cf.* ch. 21 (p. 73).

[9] Compare also the chief example of ch. 10 (the German cities which are free to the highest degree) with the remark about the Swiss in ch. 12 (the Swiss are armed to the highest degree and free to the highest). This distinction is developed somewhat more fully in *Discourses*, Bk. II, ch. 19 (pp. 286–287).

[10] Ch. 12 (p. 41) and 13 (pp. 43, 44). *Cf.* the letter to Piero Soderini of Jan. 1512.

Besides, the *Old Testament* citation in chapter 13 merely supplies at most an additional example of the right choice of arms; Xenophon's *Education of Cyrus*, mentioned at the end of chapter 14, however, is the only authority he refers to as setting forth a complete moral code for a prince. To say the least, the height reached at the end of the second part recalls the height reached in the center of the first part: the second part ends and culminates in the praise of Cyrus—one of the four "grandest examples" spoken of in chapter 6. In the first part, Machiavelli leisurely ascends to the greatest doers, and leisurely descends again; in the second part he ascends quickly to the roots of the traditional understanding of the greatest doers.

Right at the beginning of the third part (chs. 15–23), Machiavelli begins to uproot the Great Tradition. The emphasis is on a change in the general teaching: the first chapter of the third part is the only chapter of *The Prince* which does not contain any historical examples. He now takes issue explicitly and coherently with the traditional and customary view according to which the prince ought to live virtuously and ought to rule virtuously. From here we begin to understand why he refrained in the second part from referring to the highest authorities: the missing peak above the *Old Testament* and Xenophon is not the *New Testament* and Plato or Aristotle but Machiavelli's own thought: all ancient or traditional teachings are to be superseded by a shocking new teaching. But he is careful not to shock anyone unduly. While the claim to radical innovation is suggested, it is raised in a subdued manner: he suggests that he is merely stating in his own name and openly a teaching which some ancient writers had set forth covertly or else by using their characters as their mouthpieces.[11] Yet this strengthens Machiavelli's claim in truth as much as it weakens it in appearance: one cannot radically change the mode of a teaching without radically changing its substance. The argument ascends from chapter 15 up to chapters 19 or 20 and then descends again. In chapter 17 Machiavelli begins to speak again, after a pause of ten chapters, of "new princes," and he continues to do so in the three subsequent chapters; at the beginning of chapter 21 he still refers to "a quasi-new prince," but in the rest of the third part this high theme disappears completely: Machiavelli descends again to ordinary or second rate princes.[12] This movement is paralleled by a change regarding modern or ancient examples. Up through chapter 19, there is generally speaking an increase in emphasis on the ancient; thereafter modern examples preponderate obviously.[13] The last two-thirds of chapter 19, which deal with the Roman emperors, may be said to mark the peak of the third part. The passage is introduced as a rejoinder to what "many" might object against Machiavelli's own opinion. Chapter 19 is literally the center of the third part, just as the peak of the first part was literally its center (ch. 6).

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[11] Ch. 17 (p. 52) and 18 (p. 55). In the only intervening reference to literature—ch. 17 (p. 54)—Machiavelli attacks "the writers," and no longer merely as he did at the beginning of chapter 15, "many" writers. Incidentally, "many writers" are attacked in *The Discourses* as early as in the tenth chapter; the break with the tradition becomes explicit in *The Discourses* proportionately much sooner than in *The Prince*.

[12] *Cf.* the relation of princes and ministers as it appears in ch. 22 with the relation of Cesare Borgia and his minister as presented in ch. 7 (p. 24).

[13] Chs. 20, 22 and 23 contain only modern examples. The explicit emphasis on modern examples in ch. 18 (how princes should keep faith) has a special reason just as had the tacit emphasis on ancient example in ch. 9. Machiavelli draws our attention to the modern

This is no accident. Chapter 19 continues the explicit discussion of the founder which the sixth chapter had begun. Hence we may justly describe chapter 19 as the peak of *The Prince* as a whole, and the third part as its most important part.[14] Chapter 19 reveals the truth about the founders or the greatest doers almost completely. The full revelation requires the universalization of the lesson derived from the study of the Roman emperors, and this universalization is presented in the first section of chapter 20. Immediately thereafter the descent begins. Machiavelli refers there to a saying of "our ancients," *i.e.*, of the reputedly wise men of old Florence, and rejects it in an unusually cautious manner:[15] after having broken with the most exalted teaching of the venerable Great Tradition, he humbly returns to a show of reverence for a fairly recent and purely local tradition. Shortly afterwards he expresses his agreement with "the judgment of many," and immediately before questioning the wisdom of building fortresses, and before showing that the practice has been wisely abandoned by a considerable number of Italian contemporaries, he says that he praises the building of fortresses "because it has been used from ancient times."[16] He shows every sign of wishing to pretend that he believes in the truth of the equation of the good with the ancient and the customary. Acting in the same spirit he expresses there a belief in human gratitude, respect for justice, and honesty,[17] which is quite at variance with everything he said before, and especially in the third part.

Just as the movement of the argument in the third part resembles that in

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form of faithlessness or hypocrisy which strikingly differs from the Roman form (*cf Discourses*, Bk. II, ch. 13, end). There is a connection between this thought and the reference to "pious cruelty" in ch. 21. Machiavelli indicates that the argument of ch. 18 requires a special act of daring (p. 56).

[14] Ch. 19 is the center not only of the third part but of the whole section of *The Prince* which follows the discussion of the various kinds of principality, *i.e.*, of that whole section which in the light of the beginning of *The Prince* comes as a surprise (*cf.* ch. 1 where the theme "the various kinds of principality" is announced with the beginnings of chs. 12, 15 and 24). Whereas the first, second and fourth parts of *The Prince* each contain one Latin quotation, the third part contains two of them. Compare the beginning of ch. 6 with the beginnings of chs. 21–23 in the light of the observation made in the text.

[15] Ch. 20 (pp. 67–68). The opinion described there as held by "our ancients" is described in *Discourses*, Bk. III, ch. 27 (p. 403) as a modern opinion held by "the sages of our city sometime ago."

[16] Shortly before, Machiavelli mentions "natural affection" for a prince. He had not used that expression since early in ch. 4. But there he had spoken of the natural affection of the subjects for the French barons, their lords from time immemorial; now he speaks of natural affection for a new prince. The transition is partly effected by what he says in ch. 19 (p. 60) about the hatred, founded in fear, of the French people against the French magnates.

[17] Ch. 21 (p. 72). *Cf.* ch. 3, end.

the first part, the movement of the argument in the fourth part (chs. 24 through 26) resembles that in the second part. In contrast to the last chapters of the third part, the fourth part is characterized by the following facts: Machiavelli speaks again of the "new prince," and even "the new prince in a new principality," and he emphasizes again ancient models. Philip of Macedon, "not the father of Alexander, but the one who was defeated by Titus Quintus," *i.e.*, an ancient prince who did not belong to the highest class of princes, is presented as vastly superior to the contemporary Italian princes who were also defeated. While the central chapter of the fourth part contains only modern examples, it compensates for this, as it were, by being devoted to an attack on a contemporary Italian belief, or rather on a belief which is more commonly held in contemporary Italy than it was in the past. In the last chapter, Moses, Cyrus, and Theseus, three of the four heroic founders praised in chapter 6 are mentioned again; Moses and Theseus had not been mentioned since. In that chapter Machiavelli speaks in the most unrestrained terms of what he hopes for from a contemporary Italian prince, or, from the latter's family. But he does not leave the slightest doubt that what he hopes for from a contemporary new prince in a new state is not more than at best a perfect imitation of the ancient founders, an imitation made possible by the survival of the Italian's ancient valor: he does not expect a glorious deed of an entirely new kind or a new creation. While the last chapter of *The Prince* is thus a call to a most glorious imitation of the peaks of antiquity within contemporary Italy, the general teaching of *The Prince*, and especially of its third part, *i.e.*, Machiavelli's understanding of those founders and of the foundation of society in general, is the opposite of an imitation however perfect: while the greatest deed possible in contemporary Italy is an imitation of the greatest deeds of antiquity, the greatest theoretical achievement possible in contemporary Italy is "wholly new."[18] We conclude therefore that the movement of *The Prince* as a whole is an ascent followed by a descent.

III. *Application of the foregoing considerations to the interpretation of the last chapter.*

It is characteristic of *The Prince* to partake of two pairs of opposites: it is both a treatise and a tract for the times, and it has both a traditional exterior and a revolutionary interior. There is a connection between these two pairs of opposites. As a treatise, the book sets forth a teaching which is meant to be true for all times; as a tract for his times, it sets forth what ought to be done at a particular time. But the timelessly true teaching is related to time because it is new at the particular time at which it is set forth, and its being new, or not coeval with man, is not accidental. A new teaching concerning the foundations of society being, as such exposed to enmity or unacceptable, a careful movement is needed from the accepted or old teaching to the new, or a careful protection of the revolutionary interior by a traditional exterior. The twofold relation of the book to the particular time at which and for which it was composed explains why the preponderance of modern examples has a twofold meaning: modern examples are more immediately relevant for action in contemporary Italy than ancient examples, and a discussion of modern examples is less "presumptuous"[19] or offensive than a discussion of the most exalted ancient examples or of the origins of the established order. This must be borne in mind if one wants to understand what Machiavelli means by calling *The Prince* a "treatise."[20] It is necessary also to add the remark that in describing *The Prince* as the work of a revolutionary we have used that term in the precise sense: a revolutionary is a man who breaks the law, the law as a whole, in order to replace it by a new law which he believes to be better than the old law.

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[18] The most unqualified attack in *The Prince* on ancient writers in general—ch. 17 (p. 54)—occurs within the context of a praise of ancient statesmen or captains. The fourth part of *The Prince* contains one Latin quotation and the only Italian quotation occurring in the book.

If *The Prince* is obviously a combination of a treatise and a tract for the times, the manner in which that combination is achieved, is not obvious: the last chapter comes as a surprise. We believe this difficulty can be resolved if one does not forget that *The Prince* also combines a traditional surface with a revolutionary center. As a treatise, *The Prince* conveys a general teaching; as a tract for the times, it conveys a particular counsel. The general teaching cannot be identical with the particular counsel, but must at least be compatible with it. There may even be a closer connection between the general and the particular: the general teaching may necessitate the particular counsel, given the particular circumstances in which the immediate addressee of *The Prince* finds himself, and the particular counsel may require the general teaching of *The Prince* and be incompatible with any other general teaching. But at any rate, in studying the general teaching of *The Prince* we must never lose sight of the particular situation in which Lorenzo finds himself. We must understand the general in the light of the particular. We must translate every general rule which is addressed to princes, or a kind of prince, in general, into a particular counsel addressed to Lorenzo. And conversely, we must work our way upward from the particular counsel given in the last chapter to its general premises. Perhaps the complete general premises differ from the general premises as explicitly stated, and the complete particular counsel differs from the particular counsel as explicitly stated. Perhaps the unstated implications, general or particular, provide the link between the explicit general teaching and the explicit particular counsel.

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[19] Ch. 6 (p. 18) and 11 (p. 36).

[20] To "treat" something means to "reason" about it. (*Prince*, ch. 2 beginning, and ch. 8, beginning.) Machiavelli calls his discourse on the Decemvirate which includes an extensive summary of Livy's account of the Decemvirate and therefore in particular of the actions of the would-be tyrant Appius Claudius, the "above written treatise" (*Discourses* I 43), whereas he calls his discourse on the liberality of the senate "the above written discourse" (*Discourses* I 52 beginning). In *Discourses* II 32 (323) *trattato* means "conspiracy." He calls Xenophon's *Hiero* a treatise on tyranny (II 2) while he calls Dante's *Monarchia* a "discourse" (I 53). In *Florentine Histories* II 2, he calls the first book of that work *nostro trattato universale.*

What precisely is the difficulty created by the counsel given in the last chapter of *The Prince?* As for the mere fact of surprise, one might rightly say that in *The Prince* no surprise ought to be surprising. In the light of the indications given in the first chapter, chapters 8 to 11 come as a surprise, to say nothing of other suprises. Besides, one merely has to read *The Prince* with ordinary care in order to see that the call to liberate Italy with which the book ends is the natural conclusion of the book. For instance, in chapter 12 Machiavelli says that the outcome of the Italian military system has been that "Italy has been overrun by Charles, plundered by Louis, violated by Ferdinand, and insulted by the Swiss" or that Italy has become "enslaved and insulted."[21] What other conclusion can be drawn from this state of things except that one must bend every effort to liberate Italy after having effected a complete reform of her military system, *i.e.*, that one ought to do what the last chapter says Lorenzo ought to do?

The last chapter presents a problem not because it is a call to liberate Italy but because it is silent about the difficulties in the way. In that chapter it is said more than once that the action recommended to Lorenzo or urged upon him will not be "very difficult"; almost everything has been done by God; only the rest remains to be done by the human liberator. The chapter creates the impression that the only thing required for the liberation of Italy is the Italians' strong loathing of foreign domination, and their ancient valor: the liberator of Italy can expect spontaneous cooperation from all his compatriots and he can expect that they all will fly to arms against the foreigners once he "takes the banner." It is true that Machiavelli stresses even here the need for radical reform of the Italian military system. In fact, he devotes the whole center of the chapter, *i.e.*, almost half of the chapter, to the military conditions for the liberation of Italy. But all the more striking is his complete silence about its political conditions. What would be the use of all Italians becoming the best soldiers in the world if they were to turn their skill and prowess against each other or, in other words, if there were not first established a strict unity of command, to say nothing of unity of training?

It is absurd to say that Machiavelli's patriotic fervor temporarily blinds him to the hard practical problems. His patriotic fervor does not prevent him from speaking in the last chapter very prosaically and even technically about the military preparation. The liberator of Italy is described as a new prince, for the liberation of Italy presupposes the introduction of new laws and new orders: he must do for Italy what Moses had done for the people of Israel. But, as Machiavelli had been at pains to point out in the earlier chapters of the book, the new prince necessarily offends many of his fellow countrymen, especially those who benefit from the customary order of things, and his adherents are necessarily unreliable. In the last chapter he is silent about the necessary offensiveness of the liberator's actions as well as about the powerful resistances which he must expect. The liberator of Italy is urged there to furnish himself with his own troops who will be all the better if they see themselves commanded by their own prince: will the Venetian or the Milanese troops regard the Florentine Lorenzo as their own prince? Machiavelli does not say a word about the difficulties which the liberator might encounter on the part of the various Italian republics and princes. He merely alludes to these difficulties by raising the rhetorical question "what envy will oppose itself to him?" and by speaking once of "the weakness of the chiefs" in Italy. Does he mean to say that the patriotic fervor of the Italian people will suffice for sweeping aside those weak chiefs, however envious they might be? He certainly implies that before the liberator can liberate Italy, he would have to take not merely a banner, as is said in the text of the chapter, but Italy herself, as is said in the heading. It is a rare if not unique case in Machiavelli's books that the heading of a chapter should be more informative than its body.

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[21] Compare also the end of ch. 13 with ch. 25. In the first chapter Machiavelli indicates 13 subjects whose treatment might seem to require thirteen chapters, and he indicates in chapter fifteen, eleven subjects whose treatment might seem to require eleven chapters.

Apart from chapters 26 and 24 whose headings refer us to contemporary Italy, only one chapter heading in *The Prince* contains proper names and thus draws our attention to the particular. Chapter 4 is entitled: "Why the Kingdom of Darius Which Alexander Had Seized Did Not Rebel Against Alexander's Successors After His Death."[22] As a consequence, the place of the chapter within the plan of the general teaching indicated in chapter 1, is not immediately clear. Chapter 4 is the center of three chapters which deal with "mixed principalities," *i.e.*, with the acquisition of new territory by princes or republics; or, in other words, which deal with conquest. The primary example in chapter 3 is the policy of conquest practiced by king Louis XII of France; but the country in which he tried to acquire new territory was Italy. In chapter 3, Machiavelli discusses the difficulties obstructing foreign conquests in Italy, a subject most important to the liberator of Italy. By discussing the mistakes the French king committed in attempting to make lasting conquests in Italy, Machiavelli undoubtedly gives advice to foreign conquerors as to how to go about making conquests in his own fatherland.[23] This might seem to cast a reflection on his patriotism. But one could justly say that such advice is only the reverse side, if the odious side, of advice as to how to defend Italy against foreign domination or as to how to liberate Italy. It appears from Machiavelli's discussion that but for the French king's mistakes he could easily have kept his Italian conquests. The mistakes lay in permitting the minor Italian powers to be destroyed and in strengthening a major Italian power, instead of protecting the minor Italian powers and humiliating that major power.

We are forced to wonder what conclusion the liberator of Italy would have to draw from these observations. Should he destroy the minor Italian powers and strengthen the major Italian powers? The destruction of the minor powers which Machiavelli has in mind was effected by Cesare Borgia whose actions he holds up as models for Lorenzo. But would not the strengthening of the other major Italian powers perpetuate, and even increase, the difficulties of keeping the foreigner out of Italy?

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[22] Chs. 26 and 4 of *The Prince* begin with practically the same word.

[23] *Cf. Discourses*, Bk. I, ch. 23 (p. 153).

It is this question which is taken up in an oblique way in chapter 4. Machiavelli distinguishes there two kinds of principality: one like the Persian, conquered by Alexander the Great, in which one man is prince and all others are slaves, and another kind, like France, which is ruled by a king and barons, *i.e.*, in which powers exist that are not simply dependent on the prince but rule in their own right. He makes this distinction more general by comparing the French monarchy to Greece prior to the Roman conquest. What he is concerned with is then the difference between countries ruled by a single government from which all political authority within the country is simply derived, and countries in which there exists a number of regional or local powers, each ruling in its own right. Seen in the light of this distinction, Italy belongs to the same kind of country as France. In discussing Alexander's conquest of Persia Machiavelli is compelled to discuss the conquest of a country of the opposite kind, *i.e.*, the conquest of France. This however means that he is enabled to continue surreptitiously the discussion, begun in the preceding chapter, of the conquest of Italy.[24] Chapter 4 supplies this lesson: while it is difficult to conquer Persia, it is easy to keep her; conversely, while it is easy to conquer France, it is difficult to keep her. France (for which we may substitute in this context Italy) is easy to conquer because there will always be a discontented baron (state) that will be anxious to receive foreign help against the king (against other states within the country). She is difficult to keep because the old local or regional loyalties will always reassert themselves against the new prince. Secure possession of a country is impossible as long as the ancient blood of the local or regional lords or dukes or princes survives.

One might think for a moment that what is good for the foreign conqueror of a country of this sort is not necessarily good for the native liberator of such a country. But, as Machiavelli indicates in chapter 3, the superiority of France to Italy in strength and unity is due to the extirpation of the princely lines of Burgundy, Brittany, Gascony and Normandy. Given the urgency arising from the foreign domination of Italy, the liberator cannot afford to wait until the other princely families have become extinct in the course of centuries. He will have to do on the largest scale what Cesare Borgia has done on a small scale:[25] in order to uproot the power of the old local and regional loyalties which are a major source of Italian weakness, one must extinguish the families of the obnoxious Italian princes.

Cesare Borgia fulfills in *The Prince* a crucial function for the additional reason that he is the link between the foreign conqueror of Italy and her native, patriotic liberator: since he was not simply an Italian, he cannot well be regarded as a potential liberator of his fatherland.[26] As for the Italian republics, we learn from chapter 5, the last chapter devoted to the subject of conquest, that the only way in which a prince, or a republic, can be secure of the loyalty of a conquered republican city with an old tradition of autonomy, is to ruin it and to disperse its inhabitants; and that this holds true regardless of whether the conqueror and the conquered are sons of the same country or not.[27]

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[24] Only at the end of ch. 4 does Machiavelli allude to Italy by mentioning the failure of Pyrrhus, *i.e.*, his failure to keep his conquests in Italy.

[25] Ch. 7 (pp. 23–25); *cf. Opere,* Vol. I, p. 637; consider Machiavelli's statement on the pernicious character of the feudal nobility in *Discourses,* Bk. I, ch. 55.

IV. *The problem of the Church.*

The information about the political requisites for the liberation of Italy is withheld in the chapter explicitly devoted to the liberation of Italy because Machiavelli desired to keep the noble and shining end untarnished by the base and hard means that are indispensable for its achievement. He desired this because the teaching that the "end justifies the means" is repulsive, and he wanted *The Prince* to end even more attractively than it began. The information withheld in the last chapter is supplied in the section on conquest. To that section we have to turn if we desire to know what kind of resistance on the part of his countrymen the liberator of Italy will have to surmount and what kinds of offense against his fellow countrymen he will have to commit.

To liberate Italy from the barbarians means to unify Italy, and to unify Italy means to conquer Italy. It means to do in Italy something much more difficult than what Ferdinand of Aragon had done in Spain, but in certain respects comparable to it.[28] The liberator of Italy cannot depend on the spontaneous following of all inhabitants of Italy. He has to pursue a policy of iron and poison, of murder and treachery. He must not shrink from the extermination of Italian princely families and the destruction of Italian republican cities whenever actions of this kind are conducive to his end. The liberation of Italy means a complete revolution. It requires first and above everything else a revolution in thinking about right and wrong. Italians have to learn that the patriotic end hallows every means, however much condemned by the most exalted traditions both philosophic and religious. The twenty-sixth chapter of *The Discourses* which supplies us with more than one key to *The Prince*, confirms our present conclusion. Its heading says: "a new prince, in a city or country taken by him must make everything new." From its text we learn that just as Cesare Borgia did not become master of the Romagna except by "cruelty well used," Philip of Macedon did not become within a short time "prince of Greece" except by use of means which were inimical not only to every humane manner of life but to every Christian manner of life as well.[29]

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[26] The term "fatherland" which occurs in chs. 6, 8 and 9, is avoided in ch. 7, the chapter devoted to Cesare Borgia.

[27] The subject-matter of ch. 5 is slightly concealed (see the unobtrusive transition from states in general to cities, *i.e.*, republics, near the beginning: *volerli* . . . *ruinarle*) It almost goes without saying that nearly all examples in this chapter are ancient.

When discussing the badness of mercenary armies Machiavelli uses almost exclusively examples which show that mercenary armies have ruined or endangered republics. He thus shows in effect that mercenaries can be eminently good for a leader of mercenary armies, like Sforza who by being armed became a new prince; compare ch. 12 with chs. 7, (p. 21) and 14 (p. 46). These remarks taken together with those about the soldiers of the Roman emperors in ch. 19 and about the impossibility of arming all able-bodied Italian subjects in ch. 20 (p. 67) reveal a possibility which deserves attention. In this connection one should also consider what Machiavelli says toward the end of the ninth chapter, immediately after having praised (the tyrant) Nabis of Sparta, about the superiority of absolute principalities, *i.e.*, about the kind of principality which was traditionally called tyranny (*Discourses*, Bk. I, ch. 25, end), and compare it with the confrontation of the Turkish and the French monarchies in ch. 4 (p. 14).

[28] Compare ch. 25 (p. 79) with chs. 18, end, and 21, beginning, as well as *Discourses*, Bk. I, ch. 12 (p. 130).

The major Italian power which the would-be foreign conqueror, Louis XII, mistakenly strengthened instead of humiliating, was the Church. The native liberator of Italy on the other hand, is advised to use his family connection with the then Pope Leo X in order to receive support for his patriotic enterprise from the already strengthened Church. He is advised in other words to use the Church ruled by Leo X, as Cesare Borgia, the model, had used the Church ruled by Alexander VI. But this counsel can only be of a provisional character. To see this, one has to consider Machiavelli's reflections on Cesare's successes and failures. Cesare's successes ultimately benefited only the Church and thus increased the obstacles to the conquest or liberation of Italy. Cesare was a mere tool of Alexander VI and hence, whatever Alexander's wishes may have been, a mere tool of the papacy. Ultimately Alexander rather than Cesare represents the contemporary Italian model of a new prince. Cesare's power was based on the power of the papacy. That power failed him when Alexander died. His failure was not accidental, seeing that the average length of a Pope's reign is ten years, that the influence of any Italian prince on the election of a new Pope is not likely to be greater than that of the great foreign powers and above all, that the Church has a purpose or interest of its own which casts discredit on the use of the power of the Church for purposes other than strengthening the Church.[30]

[29] Compare *Discourses*, Bk. I, ch. 26 with *Prince*, chs. 7 (p. 24), 8 (p. 30), 13, end, 17, 21, beginning. Just as Philip became "from a little king prince of Greece" by the use of the most cruel means, Ferdinand of Aragon became "from a weak king the first king of the Christians" by the use of "pious cruelty."

[30] *Prince*, ch. 3 (pp. 11–13), 7 (pp. 23, 26), 11 (pp. 37–38); *cf. Discourses*, Bk. III, p. 29. We note in passing that in *The Prince*, ch. 16 (pp. 50–51), Machiavelli holds up "the present king of France," "the present king of Spain" and Pope Julius II but not the present Pope, Leo X, who possesses "goodness and infinite other virtues," (ch. 11, end) as models of prudent stinginess which is the indispensable condition for "doing great things." *Cf.* Ranke, *Die Roemischen Paepste*, ed. F. Baethgen, Vol. I, p. 273 on Leo X's extravagance—Machiavelli tells in *The Prince* two stories about private conversations which he had had (chs. 3 and 7). According to the first story Machiavelli once told a French cardinal that the French know nothing of politics, for otherwise they would not have permitted the Church to have become so great (through the exploits of Cesare Borgia). The second story deals with what Cesare told Machiavelli on the day on which Pope Julius II was elected, *i.e.*, on which Cesare's hopes were dashed through his insufficient control of the Church: Cesare had in fact committed the same mistake as the French, but he had the excuse that he had no choice.

The liberation of Italy which requires the unification of Italy requires therefore eventually the secularization of the Papal states. It requires even more. According to Machiavelli, the Church is not only through its temporal power the chief obstacle to the unity of Italy. The Church is also responsible for the religious and moral corruption of Italy and for the ensuing loss of political virtue. Besides, Machiavelli was very much in fear of the Swiss whose military excellence he traced partly to their sturdy piety. He draws the conclusion that if the Papal Court were removed to Switzerland, one would soon observe the deterioration of Swiss piety and morals and hence of Swiss power.[31] He seems to have played with the thought that the liberator of Italy would have to go beyond secularizing the Papal states by removing the Papal Court to Switzerland and thus to kill two birds with one stone. The liberator of Italy must certainly have the courage to do what Giovampagolo Baglioni was too vile to do, namely, "to show the prelates how little one ought to respect people who live and rule as they do and thus to perform an action whose greatness obliterates every infamy and every danger that might arise from it." He must make Italy as united as she was "in the time of the Romans."[32]

The addressee of *The Prince* is advised to imitate Romulus among others. To imitate Romulus means to found Rome again. But Rome exists. Or could the imitation of Romulus mean to found again a pagan Rome, a Rome destined to become again the most glorious republic and the seminary and the heart of the most glorious empire? Machiavelli does not answer this question in so many words. When he mentions for the second time, in the last chapter of *The Prince*, the venerable models whom the addressee of *The Prince* ought to imitate, he is silent about Romulus.[33] The question which he forces us to raise, he answers by silence. In this connection we may note that whereas in *The Discourses* "We" sometimes means "We Christians," "We" never has this meaning in *The Prince*. At any rate, both the explicit general teaching and the explicit particular counsel conveyed by *The Prince* are more traditional or less revolutionary than both the complete general teaching and the complete particular counsel. The two pairs of opposites which are characteristic of *The Prince*, namely, its being both a treatise and tract for the times and its having both a traditional outside and a revolutionary center, are nicely interwoven. *The Prince* is altogether, as Machiavelli indicates at the beginning of the second chapter, a fine web. The subtlety of the web contrasts with the shocking frankness of speech which he sometimes employs or affects. It would be better to say that the subtle web is subtly interwoven with the shocking frankness of speech which he chooses to employ at the proper time and in the proper place.

[31] *Discourses*, Bk. I, ch. 12. *Cf.* the letter to Vettori of April 26, 1513. In *Florentine Histories*, Bk. I, ch. 23. Machiavelli alludes to the possibility that the papacy might become hereditary. Could he have played with the thought that a new Cesare Borgia might redeem Italy after having himself become Pope and the founder of a papal dynasty?

[32] *Discourses*, Bk. I, ch. 27; *Opere*, Vol. I, p. 638.

[33] Machiavelli prepares for the silence about Romulus in ch. 26 in the following manner: in ch. 6 he enumerates the four heroic founders three times and in the final enumeration Romulus is relegated to the end. *Cf. Florentine Histories*, Bk. VI, ch. 29.

V. *Lorenzo's imitation of Moses.*

This much for the time being about the character of *The Prince.* The subject of the book is the prince, but especially the new prince. In the Epistle Dedicatory, Machiavelli indicates that his teaching is based on his knowledge of the actions of great men; but the greatest examples of great men are new princes like Moses, Cyrus, Romulus and Theseus, men "who have acquired or founded kingdoms." In the first chapter, he divides principalities into classes with a view to the differences of materials and modes of acquisition rather than to differences of structure and purpose. He thus indicates from the outset that he is chiefly concerned with men who desire to acquire principalities (either mixed or wholly new), *i.e.*, with new princes. There is a twofold reason for this emphasis. The obvious reason is the fact that the immediate addressee of the book is a new prince and besides is advised to become prince of Italy and thus to become a new prince in a more exalted sense. But what at first glance seems to be dictated merely by Machiavelli's consideration for the needs and prospects of his immediate addressee, on reflection proves to be necessary for purely theoretical reasons as well. All principalities, even if they are now elective or hereditary, were originally new principalities. Even all republics, at least the greatest republics, were founded by outstanding men wielding extraordinary power *i.e.*, by new princes. To discuss new princes means then to discuss the origins or foundations of all states or of all social orders, and therewith the nature of society. The fact that the addressee of *The Prince* is an actual or potential new prince conceals somewhat the eminent theoretical significance of the theme "the new prince."

The ambiguity due to the fact that *The Prince* deals sometimes with princes in general and sometimes with new princes in particular, is increased by the ambiguity of the term "new prince." The term may designate the founder of a dynasty in a state already established, *i.e.*, a new prince in an old state, or a man who "seizes" a state like Sforza in Milan or Agathocles in Syracuse or Oliverotto in Fermo. But it may also designate a new prince in a new state or "a wholly new prince in a wholly new state," *i.e.*, a man who has not merely acquired a state already in existence but has founded a state. The new prince in a new state in his turn may be an imitator, *i.e.* adopt modes and orders invented by another new prince, or in other ways follow the beaten track. But he may also be the originator of new modes and orders, or a radical innovator, the founder of a new type of society, possibly the founder of a new religion—in brief, a man like Moses, Cyrus, Theseus, or Romulus. Machiavelli applies to men of the highest order the term "prophets."[34] That term would seem to fit Moses rather than the three others. Moses is indeed the most important founder: Christianity rests on a foundation laid by Moses.

At the beginning of the chapter devoted to the grandest examples, Machiavelli makes it unambiguously clear that he does not expect the addressee of *The*

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[34] *Prince,* ch. 1, 6 (pp. 17–19), 8 (pp. 29–30), 14 (p. 48), 19 (p. 66), 20 (p. 67), and 24 (p. 77); *cf. Art of War,* Bk. VII (pp. 616–617).

Prince to be or to become an originator: he advises his reader to become an imitator or to follow a beaten track or to be a man of second rate virtue. This is not surprising: an originator would not need Machiavelli's instruction. As he states in the Epistle Dedicatory, he wishes that Lorenzo would "understand" what he himself "had come to know and had come to understand": he does not expect him to have come to know the most important things by himself. Lorenzo may have an "excellent" brain; he is not expected to have a "most excellent" brain.[35] However this may be, being "a prudent man," he is exhorted to "follow the track beaten by great men and to imitate those who have been most excellent," *i.e.*, men like Romulus and Moses.

On the other hand, the precepts which Machiavelli gives to Lorenzo are abstracted from the actions, not of Romulus or Moses, but of Cesare Borgia;[36] for, to say nothing of other considerations, Lorenzo's hoped for rise depends upon his family connection with the present head of the Church, and therewith on chance, just as Cesare's actual rise depended on his family connection with a former head of the Church; whereas Romulus and Moses rose to power through virtue as distinguished from chance. By imitating Cesare Borgia, Lorenzo would admit his inferiority to Cesare: Machiavelli's book would be somewhat out of place if meant for a man of Cesare's stature and lack of scruples. Still, Lorenzo is advised to imitate men of the stature of Romulus and of Moses. As appears from the last chapter, however, that imitation is expected less of Lorenzo himself than of the illustrious house to which he belongs.

In the last chapter the emphasis is altogether on Moses. Machiavelli says there that God was a friend of Moses, Cyrus and Theseus. The description is applied to Moses with greater propriety than to Cyrus and to Theseus. Lorenzo is then exhorted to imitate Moses. The notion of imitating the prophets of old was familiar to Machiavelli's contemporaries: Savonarola appeared as a new Amos or as a new Moses, *i.e.*, as a man who did the same things which the Biblical prophets had done, in new circumstances. This is not to say that there is no difference between the imitation of Moses as Savonarola meant it and the imitation of Moses as Machiavelli understood it.

In order to encourage Lorenzo to liberate Italy, Machiavelli reminds him of the miracles which God had performed before their eyes: "The sea has been divided. A cloud has guided you on your way. The rock has given forth water. Manna has rained." The miracles of Lorenzo's time, which indeed are attested to by Machiavelli alone, imitate the miracles of Moses's time. More precisely, they imitate the miracles which were performed, not in Egypt, the house of bondage, but on the way from Egypt to the promised land—to a land to be conquered. Differing from Savonarola, Machiavelli does not predict that Florence, or her ruler will become the ruler of Italy,[37] for the success of the venture depends now alone on the exercise of human virtue which, because of man's free-will, cannot be foreseen. What may be imminent, Machiavelli suggests, is the conquest of another promised land, of the land which he has half promised to Lorenzo. But alas, the imitation of Moses is bad for Lorenzo; for Moses did not conquer the promised land: he died at its borders.

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[35] *Cf. Prince*, ch. 22.

[36] Ch. 7 (pp. 21–22).

[37] Letter to [Ricciardo Bechi] March 8, 1497.

In this dark way, Machiavelli, the new sibyl, prophesies that Lorenzo will not conquer and liberate Italy.[38] He did not regard the practical proposal with which he concluded *The Prince,* as practicable. He had measured the forces of contemporary Italy too well to have any delusions. As he states in the two Prefaces of the companion book which in this respect takes up the thread where *The Prince* drops it, "of that ancient virtue [which is political] no trace has been left" in Italy. Not the short range project suggested at the end of *The Prince*, but rather the long range project indicated throughout *The Discourses* offers hope for success. Many writers have dismissed the last chapter of *The Prince* as a piece of mere rhetoric. This assertion—provided it were followed up by an intelligent account of the enigmatic conclusion of *The Prince*—could be accepted as a crude expression of the fact that that chapter must not be taken literally or too seriously.

Machiavelli does not leave it at indicating his opinion by making us think of the inauspicious character of the imitation of Moses as far as the conquest of a promised land is concerned. While stressing the imitative character of the work to which he exhorts Lorenzo he stresses the fact that the liberator of Italy must be an originator, an inventor of new modes and orders, and hence not an imitator. He himself gives some hints regarding far reaching practical innovations. But it is clear that the innovator or the inventor in these matters would be Machiavelli, not Lorenzo. The cryptic prediction of Lorenzo's failure in case he should make the attempt to liberate Italy, can therefore be restated as follows: only a man of genius, of supreme virtue, could possibly succeed in liberating Italy; but Lorenzo lacks the highest form of virtue. This being the case, he is compelled to rely too much on chance.

Machiavelli indicates and conceals how much Lorenzo would have to rely on chance by the religious language which he employs in the last chapter. He mentions God as often there as in all other chapters of *The Prince* taken together. He calls the liberator of Italy an Italian "spirit"; he describes the liberation of Italy as a divine redemption and he suggests its resemblance to the resurrection of the dead as depicted by Ezekiel; he alludes to the miracles wrought by God in Italy. However much we might wish to be moved by these expressions of religious sentiment, we fail in our effort. Machiavelli's certainty of divine intervention reminds us of his expectation of a spontaneous all-Italian rising against the hated foreigners. Just as that expectation is at variance with what earlier chapters had indicated about the certainty of powerful Italian resistance to the liberator and unifier of Italy, so the expression of religious sentiment is at variance with earlier explicit remarks.

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[38] The shift in *Prince*, ch. 26, from Lorenzo to his family can be understood to some extent from the point of view indicated in the text. As for the unreliability of promises stemming from passion, *cf. Discourses*, Bk. II, ch. 31; for the popularity of grand hopes and valiant promises, *cf. Discourses*, Bk. I, ch. 53.

According to these remarks, fear of God is desirable or indispensable in soldiers and perhaps in subjects in general, while the prince needs merely to appear religious; and he can easily create that appearance, considering the credulity of the large majority of men. In the last chapter itself Machiavelli calls the God-wrought contemporary events which resemble certain Biblical miracles, not "miracles" but "extraordinary" events "without example":[39] He thus denies the reality of those Biblical miracles and therewith, for an obvious reason, the reality of all Biblical miracles. Without such a denial, his own free invention of the contemporary "extraordinary" events would not have been possible; those invented miracles have the same status as the Biblical miracles. According to *The Prince*, miracles are happenings which are neither common nor reasonable. They are happenings which cannot be traced to secondary causes but only to God directly. Near the beginning of chapter 25 Machiavelli suggests that what is generally meant by God, is in truth nothing but chance. Hence the suggestion made in chapter 26 that a number of miracles have happened in contemporary Italy is the figurative equivalent of the assertion made explicitly in chapter 25 that chance is particularly powerful in contemporary Italy.

More specifically, many "miraculous losses" have been sustained in contemporary Italy.[40] In the last chapter he enumerates seven astonishing defeats suffered in the immediate past by Italian troops.[41] Since there is no defeat without a victor, one may speak with equal right of "miraculous losses and miraculous acquisitions" being the necessary consequence of the preponderance of Fortuna's power in contemporary Italy.[42] This means that, given the poverty of the Italian military system and the ensuing rule of chance, a well advised and industrious prince might have astounding contemporary successes against other Italian princes, just as Pope Julius II had such successes against his cowardly enemies. In particular, Lorenzo might succeed in building up a strong power in Tuscany. But the thought of defeating the powerful military monarchies which dominate parts of Italy, remains for the time being a dream.[43]

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[39] This is not to deny the fact that the miracles attested to by Machiavelli are without example insofar as their sequence differs from the sequence of the Mosaic miracles.

[40] *Prince*, ch. 3 (p. 13), 12 (pp. 39, 41), 18 (pp. 56–57) and 25 (pp. 80–81); *cf. Discourses*, Bk. I, ch. 27. One can express the progress of the argument in the last part of *The Prince* as follows: 1) everything depends on virtue (ch. 24); 2) very much depends on chance but chance can be kept down by the right kind of man (ch. 25); 3) chance has done the most difficult part of the work required for liberating Italy, and only the rest needs to be done by means of virtue (ch. 26).

[41] The seven real defeats must be taken together with the four invented miracles if one wants to grasp Machiavelli's intimations.

[42] *Discourses*, Bk. II, ch. 30, end.

[43] In the "highest" part of *The Prince* Machiavelli speaks of "us Florentines" (chs. 15 and 20), while in the other parts of the book he speaks of "us Italians" (chs. 2, 12, 13 and 24).

VI. *The ambiguity of Machiavelli's role.*

One cannot understand the meaning of the last chapter and therewith of *The Prince* as a whole without considering the position, the character and aspirations of the other partner in the relationship, not to say in the dialogue, which constitutes the book. In proportion as the status of Lorenzo is lowered, the stature of Machiavelli grows. At the beginning, in the Epistle Dedicatory, Lorenzo appears as dwelling in the wholesome heights of majesty whereas Machiavelli must inhale the dust at his feet; the favorite of Fortuna is contrasted with her enemy. Machiavelli presents himself as a man who possesses information which princes necessarily lack and yet need. He describes that information in a way which is surprising not only to those who are forced by disposition or training to think of statecraft. He claims to possess knowledge of the nature of princes: just as one sees mountains best from a valley and valleys best from a mountain, so one must be a prince in order to know well the nature of peoples and one must be a man of the people in order to know well the nature of princes. In other words, while Lorenzo and Machiavelli are at opposite ends of the scale of Fortuna, they are equal in wisdom: each possesses one half of the whole of political wisdom; they are born to supplement each other.

Machiavelli does not say that they should pool their resources in order to liberate Italy. Nor does he wish to hand over his share of political wisdom to Lorenzo as a pure gift. He desires to receive something in return. He desires to better his fortune. Looking forward to the end of the book, we may say that he desires to better his fortune by showing Lorenzo how to better his own fortune through becoming prince of Italy. For, as he has already said in the Epistle Dedicatory, chance, and Lorenzo's other qualities, promise him a greatness which even surpasses his present greatness. He dedicates *The Prince* to Lorenzo because he seeks honorable employment. He desires to become the servant of Lorenzo. Perhaps he desires to become an occasional or temporary advisor of Lorenzo. Perhaps he is even thinking of the position of a permanent advisor. But the absolute limit of his ambition would be to become the minister of Lorenzo, to be to Lorenzo what Antonio da Venafro had been to Pandolfo Petrucci, prince of Siena.

His desire would be wholly unreasonable if he did not see his way toward convincing his master of his competence. The proof of his competence is *The Prince*. But competence is not enough. Lorenzo must also be assured of Machiavelli's loyalty or at least reliability. Machiavelli cannot refer, not even in the Epistle Dedicatory, to the fact that he once had honorable employment in which he loyally served. For he was a loyal servant of the republican regime in Florence, and this fact by itself might compromise him in the eyes of his prince.

He faces this difficulty for the first time in the chapter on civil principalities, *i.e.*, on the kind of principality of which Lorenzo's rule is an example. He discusses there the question of how the prince ought to treat the notables among his subjects. He distinguishes three kinds of notables, the central one consisting of men who do not commit themselves entirely to the cause of the prince because they are pusillanimous and have a natural defect of courage. Machiavelli advises the prince to employ men of this kind provided they are men of good counsel, "for in prosperity you are honored on account of this, and in adversity you have nothing to fear from them." Men of good counsel will have the required pusillanimity if the power of the prince has strong popular support: the few who can see with their own eyes "do not dare to oppose themselves to the opinion of the many who have the majesty of the state on their side."

Since Machiavelli was suspected of having participated in a conspiracy against the Medici, it was particularly necessary for him to show through *The Prince* that men of his kind would never have the temerity to engage in such dangerous undertakings; for they would think only of the probable outcome of the deed and not of its possible intrinsic nobility. He almost presents the spectacle of a conversation between himself and a potential conspirator against the prince in which he tries to convince the conspirator of the folly of his imaginings—a spectacle the very suggestion of which must have edified and reassured Lorenzo if he should have read *The Prince*. Eventually Machiavelli does not refrain from speaking explicitly about how a new prince should treat men who in the beginning of his reign had been suspect because of their loyalty to the preceding regime. He urges the prince to employ men of this kind. "Pandolfo Petrucci, prince of Siena ruled his state more with those who were suspected by him than with others." The mere fact that such men are compelled to live down a past makes them willing to be reliable servants of the prince.

But by proving so completely his reliability in addition to his competence, Machiavelli might seem to have overshot the mark. His potential employer might well wonder if a man of his cleverness if employed as an advisor or minister, would not receive all credit for wise actions of the government and thus by contrast bring contempt on the less wise prince. Machiavelli assures him, as well as he can, by setting up the infallible general rule that a prince who is not himself wise cannot be well advised.[44]

Considering the great hazards to which Machiavelli exposed himself by trying to enter the service of a new prince, one may wonder whether according to his principles he ought not to have preferred poverty and obscurity. He answers this question in *The Discourses* since it cannot be answered with propriety in *The Prince*. Men in his position, he indicates, live in continuous danger if they do not seek employment with the prince; in trying to give advice to the prince, they must indeed "take things moderately," *i.e.*, they must avoid standing forth as the chief or sole promoters of a bold scheme. Only if the bold scheme is backed by a strong party can some risks safely be taken.[45] The particular counsel which Machiavelli gives to Lorenzo explicitly, *i.e.*, the counsel he gives in the last chapter of *The Prince*, is moderate both because it is silent about the extreme measures required for the liberation of Italy and because it cannot but be very popular with very many Italians.

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[44] *Prince*, chs. 9 (p. 32), 18 (p. 57), 19 (pp. 58–59), 20 (pp. 68–69) and 23 (pp. 76–77). In each of the two chapters, 20 and 21, Machiavelli gives five rules to princes; the fourth rule in chapter 20 concerns the employment of men who were suspect at the beginning of the reign of a new prince; in the fourth rule given in ch. 21 the prince is urged to honor those who are excellent in any art.

[45] *Discourses*, Bk. III, ch. 2, end, and ch. 35 (pp. 422–423).

VII. *Is* THE PRINCE *amoral or immoral?*

We have not yet considered Machiavelli's strange suggestion that he possesses one-half of political wisdom, namely, knowledge of the nature of princes, whereas Lorenzo may possess the other half, namely, knowledge of the nature of peoples.

He makes this suggestion in the same context in which he declares his intention to give rules for princely government. But to give rules to princes as to how they ought to rule, means to teach them how they ought to rule their peoples. Machiavelli cannot then teach princes without possessing good knowledge of the nature of peoples as well. In fact, he gives plenty of evidence of his possessing such knowledge in as much as he transmits it in *The Prince* to his princely pupil. He knows everything of relevance that the prince knows and in addition he knows much of relevance of which the prince is ignorant. He is not merely a potential advisor of a prince but a teacher of princes as such. In fact, since more than one of his precepts is not required for princes at all, because princes would know such things without his instruction, he also informs, through *The Prince*, subjects of princes, about what they ought to expect from their princes or about the nature of princes.[46] As an advisor of a prince, he addresses an individual; as a teacher of political wisdom, he addresses an indefinite multitude. He indicates his dual capacity and the corresponding duality of his addressees by the way in which he uses the second person of the personal pronoun: he uses Thou when addressing the prince, and even the man who conspires against the prince, *i.e.*, when addressing men of action, while he uses You when addressing those whose interest is primarily theoretical.[47]

Machiavelli mentions only one teacher of princes: Chiron the centaur who brought up Achilles and many other ancient princes. Machiavelli's own model is a mythical figure: he returns to the beginnings not only by making the heroic founders his most exalted theme and the foundation of society his most fundamental theme, but likewise in understanding his own doing. His model is half-beast, half-man. He urges princes, and especially new princes, first to make use of both natures, the nature of the beast and the nature of man, and in the repetition, simply to imitate the beast, *i.e.*, to use the person of the fox and the lion or to imitate these two natures.[48] The imitation of the beast takes the place of the imitation of God.

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[46] Compare *Discourses*, Bk. I, ch. 30 (p. 163) with 29 (pp. 160–161).

[47] Apart from the *Epistle Dedicatory* and ch. 26 where Machiavelli, speaking of Lorenzo to Lorenzo uses the plural of reverence, he uses the second person plural only in connection with verbs like "seeing," "finding," "considering," and "understanding." There are, I believe, 11 cases of the latter kind in *The Prince*, while in *The Discourses*, if I remember well, there are only two, Bk. I, ch. 58 (p. 221), and Bk. II, ch. 30 (p. 317); in *The Discourses* which are addressed to potential princes, the need to distinguish between doers and thinkers does not arise to the same extent as in *The Prince*. In the chapter of *The Prince* on flatterers—ch. 23 (p. 75)—Machiavelli uses Thou when speaking of the prince to the prince, while he uses the third person when speaking of the prudent prince: he is not a flatterer. Ch. 3 (pp. 10–11) beautifully illustrates how Machiavelli the teacher works together with his readers in examining certain things as well as how his contribution differs from that of his readers.

We may note here that Machiavelli is our most important witness to the truth that humanism is not enough; since man must understand himself in the light of the whole or of the origin of the whole which is not human, or since man is the being that must try to transcend humanity, he must transcend humanity in the direction of the sub-human if he does not transcend it in the direction of the super-human. *Tertium, i.e.* humanism *non datur:* there is no third alternative. We may look forward from here to Swift whose greatest work culminates in the recommedation that men should imitate the horses,[49] to Rousseau who demanded the return to the state of nature, a sub-human state, and to Nietzsche who suggested that TRUTH is not God but a Woman. As for Machiavelli, one may say with at least equal right that he replaces the imitation of the GOD-MAN, Christ, by the imitation of the BEAST-MAN, Chiron. That BEAST-MAN is, as Machiavelli indicates, a creation of the writers of antiquity, a creature of the imagination. Just as Scipio by imitating Cyrus in fact imitated a creature of Xenophon,[50] the princes by imitating Chiron will in fact imitate, not Chiron, but the ancient writers, if the carrying out of a teaching can justly be called an imitation of that teaching. But whatever may be true of princes or other actors, certainly Machiavelli by teaching princes what Chiron was said to have taught, imitates Chiron or follows the creators of Chiron. Yet, as we have noted before, merely by teaching openly, and in his own name, what certain ancient writers had taught covertly and by using their characters as their mouthpieces, Machiavelli sets forth an entirely new teaching. He is a Chiron of an entirely new kind.

In general, as a teacher of princes, or of new princes, Machiavelli is not particularly concerned with the particulars facing contemporary Italian princes. Such problems would be of interest to him only as illustrations of typical problems. The primary purpose of *The Prince* is then not to give particular counsel to a contemporary Italian prince, but to set forth a wholly new teaching regarding wholly new princes in wholly new states, or a shocking new teaching about the most shocking phenomena.

From this we understand the meaning of the last chapter. The particular counsel there given serves the purpose of justifying the novel general teaching before the tribunal of accepted opinion: a general teaching however novel and repulsive, might seem to be redeemed if it leads up to a particular counsel so respectable, honorable and praiseworthy as that of liberating Italy. But how is this transformation achieved? Machiavelli does not merely suppress mention of the unholy means which are required for the achievement of the sacred end. He surreptitiously introduces a new end, an end not warranted by the argument of the first twenty-five chapters. He urges Lorenzo to liberate Italy on patriotic grounds or, to use a term to which he alludes near the beginning of chapter 26, on grounds of the common good. He thus creates the impression that all the terrible rules and counsels given throughout the book were given exclusively for the sake of the common good.

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[48] *Prince*, ch. 18 (p. 55) and 19 (p. 62).

[49] Swift's Houyhnhnms, being reasonable horses, are centaurs if a centaur is a being which combines the perfection of a horse with the perfection of a man. In order to understand what the recommendation to imitate these beast-men means in *Gulliver's Travels* one would have to start from the facts that the relation between Lilliput and Brobdingnag imitates the relation between the moderns and the ancients, and that the same relation is imitated again on a different plane in the last two parts of the work.

[50] Compare *Prince*, ch. 14, end, with *Discourses*, Bk. II, ch. 13.

The last chapter suggests then a tolerable interpretation of the shocking teaching of the bulk of the work. But the first twenty-five chapters had observed complete silence about the common good. The allusion to the common good near the beginning of chapter 26 has the same status as the other surprising features of that chapter: the expectation of a spontaneous all-Italian rising against the foreigners and the expression of religious sentiment. It is only when one subjects the particular counsel given in the last chapter to political analysis along the lines demanded by the earlier chapters that one realizes that one must have broken completely with traditional morality and traditional beliefs in order even to consider that counsel.

But the judicious reader cannot leave it at raising the question of how that particular counsel could be put into practice and thereafter whether it can be put into practice under the given circumstances. He must raise this further and more incisive question: would Machiavelli condemn the immoral policies recommended in the bulk of the book if they did not serve a patriotic purpose? Or are these immoral policies barely compatible with a patriotic use? Is it not possible to understand the patriotic conclusion of *The Prince* as a respectable coloring of the designs of a self seeking Italian prince? There can be no doubt regarding the answer; the immoral policies recommended throughout *The Prince* are not justified on grounds of the common good, but exclusively on grounds of the self-interest of the prince, of his selfish concern with his own well being, security and glory.[51]

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[51] Machiavelli does not even suggest that Cesare Borgia, the model, was animated by patriotism or concerned with the common good. It is true that he contrasts Cesare with the criminal Agathocles by not calling Cesare a criminal. But if one looks at the actions of the two men, the contrast vanishes: in describing Agathocles as a criminal, he provisionally adopts the traditional judgment on that man, whereas there does not yet exist a traditional judgment on Cesare. The traditional condemnation of Agathocles was partly based on the fact that he had risen to princely power from "a base and abject condition." Machiavelli refers to a similar consideration when explaining the failure of Maximinus—*Prince*, ch. 19 (pp. 64–65)—but it is irrelevant for his own judgment as can be seen from *Discourses*, Bk. II, ch. 13, to say nothing of the Epistle Dedicatory to *The Prince*, where he describes himself as "a man of low and base state." The main reason why Machiavelli has to speak of a criminal ruler was that he was compelled to indicate that he was questioning the traditional distinction between the criminal and the non-

The final appeal to patriotism supplies Machiavelli with an excuse for having recommended immoral courses of action. In this light, his character may very well appear to be even blacker than even his worst enemies have thought. At the same time, however, we are not forced to leave it at saying that the last chapter of *The Prince* is a piece of mere rhetoric, *i.e.*, that he was not capable of thinking clearly and writing with consummate skill.

These observations are not to deny that Machiavelli was an Italian patriot. He would not have been human if he had not loathed the barbarians who were devastating and degrading his fair country. We merely deny that his love for his fatherland, or his fatherland itself, was his most precious possession. The core of his being was his thought about man, about the condition of man and about human affairs. By raising the fundamental questions he of necessity transcended the limitations and the limits of Italy, and thus he became enabled to use the patriotic sentiments of his readers as well as his own for a higher, ulterior purpose.

One must also consider an ambiguity characteristic of his patriotism. In *The Prince* there occur eight references to "the fatherland"; in one case Italy is described as the fatherland; in six cases the fatherlands mentioned are, not countries, but cities; in one case, one country (Persia) and two cities (Athens and Rome) are described as fatherlands while in the fourth example mentioned in that context, the example of Moses, it is unclear whether the fatherland honored by Moses was Egypt or Canaan *i.e.*, the land of his birth or the land of his aspiration.[52] When we apply this observation to Machiavelli, we become

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criminal as far as founders are concerned. He presents Agathocles then as the classical example of the criminal ruler, as a breaker of all divine and human laws, a murderer and a traitor, and a man without faith, mercy or religion; Agathocles possessed indeed greatness of mind; while being a most excellent captain, he cannot be counted among the most excellent men; his actions could acquire for him empire but not glory; he benefited indeed his subjects, or rather the common people, but he did this of course entirely for selfish reasons. In the sequel Machiavelli retracts everything he had said in connection with Agathocles about the difference between an able criminal ruler and an able non-criminal ruler. The first step is the praise of Nabis whom he calls a prince in *The Prince*, while he calls him in *The Discourses* a tyrant; Nabis' policy was fundamentally the same as that of Agathocles. Compare *Prince*, ch. 9 (p. 33) and ch. 19 (p. 58) with *Discourses*, Bk. I, ch. 10 (p. 122) and ch. 40 (p. 187). The second step is the questioning of the difference between "most excellent captain" and "most excellent man": good arms are the necessary and sufficient condition of good laws, and Agathocles had good arms; the excellent man most emphatically praised, Cyrus, is not said to have possessed faith, mercy and religion, but he is distinguished by greatness of mind, *i.e.*, by a quality which Agathocles also possessed. One reason why Agathocles cannot be counted among the most excellent men, is his savage cruelty and inhumanity; but Hannibal who is likewise characterized by inhuman cruelty is a most excellent man. Compare *Prince*, ch. 12 (pp. 38–39), ch. 14 (pp. 47–48), ch. 17 (p. 54), ch. 26 (p. 81) with *Discourses*, Bk. II, ch. 18 (p. 280) and Bk. III, ch. 21, end. The last step is to show that glory can be acquired by crime or in spite of crime. This is shown most clearly by *Prince*, ch. 18 towards the end, and by the case of Severus to say nothing of Machiavelli's observations regarding Giovampagolo Baglioni in *Discourses*, Bk. I, ch. 27.

[52] *Prince*, ch. 6 (p. 18), ch. 8 (pp. 27, 29, 30), ch. 9 (pp. 31, 33), ch. 26 (p. 84).

aware of the tension between his Italian patriotism and his Florentine patriotism. Or should one not rather speak of a tension between his Roman patriotism and his Tuscan patriotism? There exists a close connection between the trans-patriotic core of his thought and his love for Italy. Italy is the soil out of which sprang the glory which was ancient Rome. Machiavelli believed that the men who are born in a country preserve throughout all times more or less the same nature. If the greatest political achievement which the world has ever known was the fruit of the Italian soil there is ground for hope that the political rejuvenation of the world will make its first appearance in Italy. The sons of Italy are the most gifted individuals in the world; all modern writers referred to in either *The Prince* or *The Discourses* are Italians.

Since that political rejuvenation is bound up with a radical change in thought, the hope from Italy and for Italy is not primarily political in the narrow sense of the term. The liberation of Italy which Machiavelli has primarily in mind, is not the political liberation of Italy from the barbarians but the intellectual liberation of an Italian elite from a bad tradition. But precisely because he believed that the men who are born in a country preserve throughout all times more or less the same nature, and as the nature of the Romans was different from that of the Tuscans, his hope was also grounded on his recollection of Tuscan glory:[53] the old Etrurians had made a decisive contribution to the religion of the Romans. He seems to have regarded himself as a restorer of Tuscan glory because he too contributed toward supplying Rome with a new religion or with a new outlook on religion. Or perhaps he thought of Tarquinius Priscus, the Etrurian who strengthened the democratic element of the Roman polity.

Furthermore, once one grasps the intransigent character of Machiavelli's theoretical concern, one is no longer compelled to burden him with the full responsibility for that practical recklessness which he frequently recommends. The ruthless counsels given throughout *The Prince* are addressed, less to princes who would hardly need them than to "the young" who are concerned with understanding the nature of society. Those true addressees of *The Prince* have been brought up in teachings which, in the light of his wholly new teaching, reveal themselves to be much too confident of human goodness, if not of the goodness of creation and hence too gentle or effeminate.

Just as a man who by training or by nature is too much given to fear, cannot acquire that courage which is a mean between cowardice and foolhardiness, unless he drags himself in the direction of foolhardiness, Machiavelli's pupils must go through a process of brutalization in order to become free from effeminacy. Or just as one learns bayoneting by using weapons which are much heavier than those used in actual combat,[54] one learns statecraft by seriously playing with extreme courses of action which are rarely, if ever, appropriate in actual politics. Not only some of the most comforting, but precisely some of the most outrageous statements of *The Prince* are not meant seriously but merely serve a pedagogic function: as soon as one understands them, one sees that they are amusing and meant to amuse.

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[53] *Prince*, ch. 26 (p. 83); *Discourses*, Bk. II, ch. 4, toward the end, and Bk. III, ch. 43; *Art of War*, at the end; compare *Discourses*, Bk. I, ch. 1, end, with Livy, Bk. I, ch. 34.12–ch. 35.12. Also Livy, Bk. V, ch. 15. *Cf.* note 43 above.

[54] *Cf. Art of War*, Bk. II (p. 489).

Machiavelli tries to win over the young from adhering to the old teachings by appealing to the taste of the young which is not the best taste or, for that matter, to the taste of the common people:[55] he displays a bias in favor of the impetuous, the quick, the partisan, the spectacular, and the bloody, over and against the deliberate, the slow, the neutral, the silent, and the gentle. In *The Prince* he says that a prince who has conquered a city which was wont to live free, must destroy it if he cannot make it his residence. In *The Discourses* he says that precisely a prince, as distinguished from a republic, provided he is not a barbarian, would spare and protect conquered cities and would leave intact, as much as possible, their autonomy.[56]

Another resolute course of action recommended in *The Prince* is to avoid neutrality when two powerful neighbors come to blows: to take sides is always better than to stay neutral. Machiavelli gradually discloses the limitations of this advice. He admits first that neutrality is not always fatal. He states then that because of the power of justice, to take sides is safer than to stay neutral. Thereafter he makes clear that under certain conditions it is most unwise to abandon neutrality in case of conflict between two powerful neighbors. Finally he admits that no course of action is perfectly safe or, in other words, that the power of justice is not as great as he previously indicated.[57] He suggests very strongly in *The Prince* that the one thing needful is good arms; he speaks less loudly of the need for prudence.[58]

VIII. *Machiavelli as Prophet.*

We must return once more to Machiavelli's suggestion that he possesses adequate knowledge of the nature of princes whereas Lorenzo may possess adequate knowledge of the nature of peoples. As we have said, this suggestion is absurd: since to be a prince means to rule the people, it is impossible to know well the first without knowing well the second; to say nothing of the facts that he displays knowledge of the nature of peoples throughout *The Prince* and, as he says explicitly in *The Discourses*, there is no difference of nature between princes and peoples.[59] Since he knows well the nature of peoples, he intimates by his strange suggestion that he is a prince.

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[55] *Cf. Discourses*, Bk. I, ch. 53.

[56] *Prince*, ch. 5; *Discourses*, Bk. II, ch. 2 (pp. 239–240). In the preceding chapter of *The Discourses* (p. 234) there occurs one of the few references to *The Prince;* it is to the third chapter, *i.e.*, to the section which deals with conquest.

[57] *Prince*, ch. 21 (pp. 71–73).

[58] *Prince*, ch. 12 (pp. 38–39) and ch. 19 (p. 58); *Discourses*, Bk. I, ch. 4 (p. 103); *Opere*, Vol. II, p. 473.

[59] *Prince*, ch. 3 (p. 6), ch. 6 (p. 19), ch. 9 (pp. 31, 32), ch. 10 (pp. 35–36), ch. 17 (p. 53), ch. 18 (p. 57), ch. 23 (p. 75), ch. 24 (p. 78); *Discourses*, Bk. I, chs. 57 and 58 (pp. 217–219). In *The Prince*, chs. 7 (p. 22) and 8 (p. 28) he applies expressions to Cesare Borgia and to Agathocles which he had applied to himself in the Epistle Dedicatory.

This intimation will appear strange only to those who lack familiarity with Xenophon or Plato: he who knows the art of ruling is more truly a ruler than men who rule merely by virtue of inheritance or force or fraud or election by people who know nothing of the art of ruling.[60] But if Machiavelli is a prince, he is a new prince, and not a new prince who imitates the modes and orders which were founded by others, but one who is an originator or true founder, a discoverer of new modes and orders, a man of supreme virtue. In fact, if it is proper to call prophet the founder of a new social order which is all-comprehensive, and not merely political or military, he is a prophet. Not Lorenzo, but Machiavelli, is the new Romulus-Numa or the new Moses, *i.e.*, a man who not merely repeats in new circumstances what Romulus-Numa or Moses had done in the olden times, but who is as original as they were.

In the last chapter of *The Prince*, he attests to certain miracles which had happened somewhere in contemporary Italy—miracles which resemble those of the time of Moses. The ancient miracles happened on the way from the house of bondage to the promised land: they happened immediately before the revelation on Mount Sinai. What is imminent, Machiavelli suggests then, is not the conquest of a new promised land, but a new revelation, the revelation of a new code, of a new decalogue. The man who will bring the new code cannot be Lorenzo or any other prince in the vulgar sense of the term. The bringer of the new code is none other than Machiavelli himself: he brings the true code, the code which is in accordance with the truth, with the nature of things.

Compared with this achievement the conquest of the promised land, the liberation of Italy is a *cura posterior:* it can wait, it must wait until the new code has regenerated the Italians. The new Moses will not be sad if he dies at the borders of the land which he had promised and if he will see it only from afar. For while it is fatal for a would be conqueror not to conquer while he is alive, the discoverer of the all-important truth can conquer posthumously.[61]

Concerning new prophets in general, Machiavelli remarks that all armed prophets have conquered and the unarmed prophets have failed. The greatest armed prophet is Moses. The only unarmed prophet mentioned is Savonarola. But as is shown by the expression "all armed prophets . . . and the unarmed ones," he thinks not merely of Savonarola. Just as he, who admired so greatly the contemporary Muslim conquerors, cannot help thinking of Muhammad when speaking of armed prophets, he must have thought of Jesus when speaking of unarmed prophets.

This is perhaps the greatest difficulty which we encounter when we try to enter into the thought of *The Prince:* how can Machiavelli, on the basis of his principles, understand the victory of Christianity? Certain of his successors attempted explicitly to account for the victory of Christianity in purely political terms. To quote from a present day historian:

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[60] *Cf. Discourses*, Epistle Dedicatory, and the letter to Vettori of Dec. 10, 1513.

[61] The 11 pairs of opposite moral qualities mentioned in ch. 15 and the 11 rules of conduct discussed in chs. 20 to 21 prove on examination to be 10. Compare Hobbes's re-writing of the decalogue in *Leviathan*, ch. 30.

> In the most starkly Erastian utterance of the [seventeenth] century, [Henry] Parker all but maintained that it was Constantine and not the preaching or the miracles of the early Church, that won Europe to the Christian fold.[62]

But we cannot bring ourselves to believe that a man of Machiavelli's intelligence would have been satisfied with an answer of this kind which obviously leads to this further question: what motivated Constantine's action? Must Christianity not already have been a power in order to become an attraction or a tool for a politician? To see how Machiavelli could have accounted for the victory of Christianity, we have to consider a further difficulty which is no less obvious. All unarmed prophets, he says, have failed. But what is he himself if not an unarmed prophet? How can he reasonably hope for the success of his enormous venture—enormous in itself and productive of infinite enormities—if unarmed prophets necessarily fail? This is the only fundamental question which *The Prince* raises in the reader's mind without giving him even a suspicion of Machiavelli's answer. It recalls the question which is likewise left unanswered in *The Prince*, as to how new modes and orders can be maintained throughout the ages.[63] If Machiavelli has answered these questions at all, he is likely to have answered them in *The Discourses* rather than anywhere else.

[62] W. K. Jordan, *Men of Substance* (Chicago, 1942), p. 82.

[63] Compare *Discourses*, Bk. III, ch. 35, beginning, with *Prince*, ch. 6 (p. 19).

THE NATURAL LAW THESIS: AFFIRMATION OR DENIAL?

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The age old contest between the proponents of natural law and their opponents continues unabated, and a solution does not seem in sight. The reason, it seems to me, is simply that representatives of either side often quite literally do not know what they themselves, as well as their opponents, are talking about. Instead of arguing for their respective theories and against those of their antagonists, they knock down straw men. And since there are periodic "revivals" of natural law, and of its denial as well, the game continues endlessly. Yet, I believe it is sufficient to state the issue clearly to realize that the advocates of natural law adhere to an incorrect epistemological view, and that political thought must dispense with natural law because it is a mistaken doctrine.

I shall use the expression "the natural law thesis" to refer to the basis common to all the innumerable theories making up the history of natural law. I shall try to formulate the precise meaning of the natural law thesis and of its denial. I shall give my reasons for rejecting the arguments advanced in favor of natural law and my reasons for holding the opposite view to be the correct one. I shall point out some general misconceptions as to what is, and what is not, entailed by the denial of the natural law thesis.[1] I shall refute the current belief that to deny natural law is to deny the possibility of rational choice and responsible behavior.

I. THE NATURAL LAW THESIS

The Meaning of the Natural Law Thesis: (a) It Does Not Belong to Empirical Science. Natural law doctrines are usually couched in the language of empirical science. "All men are endowed with certain inalienable rights" looks and sounds like "all men are endowed with two eyes" or "all persons in the United States are endowed with the right of free speech." This grammatical appearance is deceptive. The second and third sentences are empirical, because they contain only descriptive terms; *e.g.*, the word "right" refers to a legal right within a given system of positive law.[2] The same word "rights" is being used in the first sentence in a normative-ethical rather than in an empirical-legal sense; as a result, the whole sentence acquires normative character. Surely, the framers of the Declaration of Independence did not intend to make the obviously false assertion that all men do in fact have the same legal rights.

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[1] In the absence of a handier term for "denial of the natural law thesis," I have no choice but to use this clumsy expression throughout the paper.

[2] The statement: "all persons in the United States have the legal right of free speech" can be empirically verified by referring to the First Amendment and to the fact that this provision has, on the whole, been enforced.

Rather, they meant to exhort men everywhere to urge their respective governments to give them those legal rights to which they are morally entitled.[3]

Every particular natural law doctrine refers to rules of ethics in the area of political behavior; to *moral* rules as to what legal rules ought to be enacted, obeyed, and enforced; to ethical standards according to which a given legal or political institution or system is just or unjust.

(*b*) *It Does Not Belong to Normative Ethics*. The normative component does not exhaust the meaning of the natural law thesis. Take Cicero's classical dictum:

> There is in fact a true law—namely right reason—which is in accordance with nature, applies to all men, and is unchangeable and eternal.[4]

Cicero does not merely exhort all men to act in accordance with certain moral principles; he also means to affirm that these norms are objectively valid, regardless of anybody's subjective preferences and independently of any system of positive law. Similarly, to characterize "life" as a natural or absolute or self-evident or necessary right, or to claim that preserving life is commanded by natural or objective or eternal or true law, is to say the same as: the command-sentence "preserve life!" (or "do not kill!" or "murder ought to be punished") is demonstrably true.

Natural law theorists differ widely as to the content of natural law, *i.e.*, as to what natural law enjoins us to do. Philosophers of natural law also disagree among themselves as to how it can be shown that to do such-and-such is a natural law command or a natural right or a just law. But all the proponents of the natural law *thesis* agree that there are normative statements in the area of law and politics which are demonstrably true or false; that there are certain kinds of political behavior which can be proven to be morally right or wrong; that there are political institutions which are objectively just or unjust. This is the core meaning of the natural law thesis.

The natural law thesis therefore does not belong to normative ethics; it consists of assertions about the truth or falsity of normative statements, rather than of the statements themselves.

(*c*) *It Belongs to Epistemology*. The natural law thesis deals with the logical status of certain normative statements, namely with the question whether and how they can be validated. This is a problem of epistemology, more particularly of logical analysis. The natural law thesis belongs neither to empirical science nor to ethics but to epistemology.

To subscribe to the natural law thesis is to adhere to the epistemological theory of value-cognitivism. Value-cognitivism claims that there exist intrinsic value-judgments which are cognitively true or false, regardless of the speaker's or listener's intrinsic value-commitments. Intrinsic value-judgments stipulate that some object or event or state of affairs is valuable or disvaluable in itself and not merely as a means to some more remote goal. The natural law thesis affirms the cognitive validity of a certain sub-class of such value-judgments, namely of moral judgments about what is intrinsically good or just in the field of political or legal institutions and behavior. By implication, the natural law thesis bestows cognitive status on those commands which are logically entailed by such intrinsic moral judgments.[5] To deny the natural law thesis is to deny that this category of intrinsic value-judgments and the corresponding imperatives are either cognitively valid or invalid.

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[3] That these moral claims are "inalienable" means, that the corresponding legal rights ought not, not that they cannot, be taken away.

[4] *Republic*, III, 22.

The Invalidity of the Natural Law Thesis. The validity of the natural law thesis depends on the epistemological question of the verifiability of intrinsic value-judgments. Only if value-cognitivism holds true can some particular natural law theory be correct. And even if value-cognitivism is true, some natural law theories must be false, namely those which regard demonstrably invalid norms as natural law commands. Suppose A claims that natural law enjoins everyone to disobey tyrannical laws, and B maintains that obedience to positive law, however unjust, is itself a natural law command. If it can be shown that noncompliance with despotic laws is intrinsically right, A's theory of natural law is thereby validated and B's theory refuted. The opposite would hold if it could be shown that obedience to positive law is always a moral duty. In either case, the natural law thesis itself would be substantiated. To refute the natural law thesis, therefore, one must show that no normative statement such as either A's or B's can be either proved or disproved.

Every proponent of the natural law thesis might be expected to deal with the crucial question: given two incompatible intrinsic moral judgments (such as A's or B's), by what method shall we decide which of them, if any, is true and must be included in the catalogue of natural law commands? Yet the history of natural law from Cicero to Maritain reveals that this essential question is hardly ever asked, let alone answered. Most natural law theorists merely *proclaim* that there is a "sacred, eternal, divine, absolute law"[6] or *profess* their "unshakable faith in moral and legal values above and beyond the chaos and relativity of mere empirical 'givenness'"[7] or *assume* that there is natural law because we need it so badly. What the natural law theorists hope to be metaphysical atom bombs capable of annihilating their "positivist" or "relativist" foes turn out to be mere firecrackers; to proclaim is not to demonstrate, faith is no substitute for proof, and assumptions must be warranted.

I shall be concerned only with those natural law theories which have dealt with the validation of natural law norms, and shall briefly discuss the different methods proposed. I shall take my illustrations from writings of the recent "revival" of natural law, which, incidentally, form a set of very strict variations on a very old theme.

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[5] Cf. R. M. Hare, *The Language of Morals* (Oxford, 1952), p. 163 f., for a demonstration that a moral judgment such as: "to do x is just" logically entails the imperative: "do x!"

[6] Emil Brunner, *Justice and the Social Order* (New York, 1945), p. 8.

[7] Anton-Hermann Chroust, "On the Nature of Natural Law," in Paul Sayre (ed.), *Interpretations of Modern Legal Philosophies* (New York, 1947), p. 80.

(*a*) *Natural Law Based on Divine Revelation.* To characterize natural law norms as divine commands has been historically the most important argument for the natural law thesis. As restated recently by the Swiss Protestant theologican Emil Brunner,

> the origin of the dignity shared equally by all mankind is not to be sought in abstract reason, nor in a general order of being, but in the will of the living God.[8]

The argument that a command-sentence is objectively valid because it was uttered by God cannot be accepted exept by those who happen to believe in an anthropomorphic God who does issue commands, and moreover in the same God as the natural law theorist who uses this argument. As Brunner himself acknowledges: "But one thing is impossible—to believe in justice and yet reject the divine law of justice."[9] Consequently, it would be just as impossible for anyone who does not share Brunner's religious faith to "believe in justice," *i.e.*, to support the natural law thesis. Another example is provided by Ernest Griffith's recent statement:

> It is my hypothesis that the Christian and Hebrew faiths constitute a powerful matrix, a common denominator of those attitudes most essential to a flourishing democracy. Moreover, it would appear that it is these faiths, and especially the Christian faith, that perhaps alone can cloak such attitudes with the character of "absolutes."[10]

The last sentence presumably means that the value-judgment "democracy is intrinsically good" is ("absolutely") valid. It follows that those who happen not to adhere to these creeds are bound to deny that democratic attitudes are "absolutes," *i.e.* that the corresponding value-judgments can be validated. However, a statement which is valid for some and not for others is not valid in the intersubjective sense in which this word is being used in scientific discourse.[11]

(*b*) *Natural Law a Self-Evident Truth.* In their search for a broader basis, natural law theorists have turned to the concept of self-evidence. Two recent examples of this age-old doctrine:

> The term Natural Law is defined as that *self-evident* law which . . . remains essentially—that is to say as to its very foundation and justification—independent of conviction or tradition.[12]
>
> I know the reality of obligations and goodness with as much *self-evidence* as I know logical, geometrical, or causal necessitation. . . . *I cannot doubt* the obligation to keep promises or to spare unnecessary pain.[13]

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[8] *Op. cit.*, p. 39. Brunner becomes quite specific: "Private property is a right established by creation" (p. 148). "In fulfillment of the Creator's gift, man is also, by divine ordinance, granted freedom in the use of his sexual faculties" (p. 60)—with some limitations.

[9] *Op. cit.*, p. 46.

[10] Ernest S. Griffith, "Cultural Prerequisites to a Successfully Functioning Democracy; A Symposium," this REVIEW, Vol. 50, p. 103 (March, 1956).

[11] Catholics like Maritain avoid this pitfall; they consider belief in God helpful but not necessary to an awareness of natural law. Cf. Jacques Maritain, *The Rights of Man and Natural Law* (London, 1944), p. 35.

[12] Chroust, *loc. cit.*, p. 70. Throughout this paper, italics are mine unless otherwise indicated.

[13] E. F. Carritt, *Ethical and Political Thinking* (Oxford, 1947), p. 43.

A sentence is self-evident if it is either psychologically or logically impossible to reject it. As to psychological self-evidence, we need only to remember the attacks on Galileo or Darwin to realize that something is not *proven* true (or false) by the fact that it is generally and unquestionably believed to be true (or false). Besides, most of the so-called natural laws and natural rights have been far from self-evident in this psychological sense; the fact that they were proclaimed over and over again indicates that there could be, and that there has been, disagreement as to their validity and even as to their desirability.

The view that natural law norms are logically self-evident has found its classical expression in St. Thomas Aquinas. As reiterated by Maritain:

> The only practical knowledge all men have naturally and infallibly in common is that we must do good and avoid evil. This is the preamble and the principle of natural law; it is not the law itself. Natural law is the ensemble of things to do and not to do which follow therefrom in a *necessary* fashion, and *from the simple fact* that man is man, nothing else being taken into account.[14]

A sentence is logically self-evident or logically necessary if it is analytic; *i.e.*, if its denial results in a self-contradiction.[15] If "good" means whatever ought to be done, then "we must do good" is indeed logically necessary—and vacuous. Such a "principle of natural law" does not order us to do one thing and not another. No specific command can be derived either from this empty formula or from that other logically necessary sentence: "man is man." On the other hand, if "good" is defined as characteristic of *certain* actions and not of others, then "do good!" is a genuine command, but by no means logically necessary.

The same dilemma applies to that other age-old adage of natural law: *suum cuique*. To cite a modern version:

> That justice consists in rendering to each man his due is the fundamental principle of all natural law.[16]

As long as the key word "due" remains undefined, the alleged principle "give each man his due!" is vacuous and cannot be violated even by the most ruthless dictator. As soon as one specifies *what* is due and to *whom*, the sentence "*suum cuique*" acquires normative meaning and ceases to be logically self-evident.

(c) *Natural Law—Synthetic a Priori.* The term "self-evident" or "necessary" is sometimes used to characterize non-analytic, *i.e.* synthetic, statements held to be true *a priori*. According to natural law philosophers of the Platonic tradition, words such as "Justice," "Goodness," "Obligation" stand for abstract entities which can be perceived or intuited with the "inner eye" or with a sixth sense. According to Del Vecchio, natural law is:

> essentially transcendent, grasped by the mind *a priori* as an absolute and universal necessity, superior and anterior to any application of experience.[17]

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[14] *Op. cit.*, p. 36; italics Maritain's.

[15] *E.g.*, given the definition: "son" is a male offspring, the statement "all sons are male" is analytic.

[16] Brunner, *op. cit.*, p. 86.

[17] Giorgio Del Vecchio, *The Formal Bases of Law* (New York, 1921), p. 332.

Similarly, Barker asserts that:

> If law is to have value as well as validity . . . it must satisfy, in the last resort, the demands of the *general moral conscience,* issuing and expressed in a general all-round notion of what is just and right in the conduct of human relations.[18]

The Aristotelian variant of this school views natural law as somehow embedded in the teleological order of the universe. To quote the philosopher John Wild, one of the most important contemporary spokesmen for realism (as opposed to nominalism):

> The theory of natural law also presupposes certain realistic epistemological principles. It implies . . . the capacity of human reason to apprehend . . . the perfective tendencies characteristic of the human species. When so understood and expressed in universal propositions, these tendencies are norms or moral laws. This realistic doctrine is inconsistent with any view which regards norms as separated from existent fact or as arbitrary constructions made by man.[19]

To speak in this fashion of justice as if it were a thing is to commit the fallacy of reification, and to ascribe conscious tendency or purpose to anything but particular human individuals is to commit the anthropomorphic fallacy. But the most important argument against ethical *a priorism* in its Platonic or Aristotelian variant can be put in form of the rhetorical question: If A claims that he has "grasped as absolute and universal necessity" that tyrannical laws ought to be disobeyed and B retorts that the moral duty to obey all positive law is "grounded in the abstract-universal nature of things," by what objective, *i.e.*, inter-subjective, criteria shall one decide whose reason is pure and whose sense of right is wrong?

(*d*) *Natural Law Derived from Facts.* While the theories just mentioned tend to identify values with facts, naturalism attempts to derive the former from the latter. It seems trivial to point out that no normative sentence can be deduced from an empirical statement.[20] The naturalistic fallacy continues nevertheless to tempt critics and defenders of natural law alike. The former try to derive "ethical relativism" from cultural relativity, thereby inviting the reply that diversity of valuations among cultures merely illustrates how many people adopt "wrong" values. Natural law theorists, in turn, take advantage of the more recent trend in cultural anthropology which emphasizes similarities rather than differences between the basic value commitments in different societies.[21] Thus Jerome Hall, combining naturalistic with intuitionistic arguments, maintains that:

> The objective validity of moral judgments is known *intuitively* or, as regards problematic

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[18] Ernest Barker, *Principles of Social and Political Theory* (Oxford, 1951), p. 117.

[19] John Wild, *Plato's Modern Enemies and the Theory of Natural Law* (Chicago, 1953), p. 66.

[20] Deduction consists in making explicit what is logically implied by the premise; hence the conclusion cannot contain value-terms such as "unjust" or command-words such as "ought" unless the premise does.

[21] Cf. Clyde Kluckhohn, "Ethical Relativity: Sic et Non," *The Journal of Philosophy*, Vol. 52, p. 666 (1955).

> situations, it is established by . . . the consensus of informed unbiased persons and the *universality of solutions among diverse cultures*.[22]

As if, *e.g.*, the fact that incest is a universal tabu could be taken as proof that incest is objectively evil and contrary to moral or natural law.

One finds a similar argument in the field of jurisprudence: judges "fill the gaps" of the written law with the social norms of the "living law"; therefore, this set of unwritten norms has the quality of "higher," in the sense of natural, law. Judges, no less than legislators, do indeed make value-judgments (*e.g.*, as to which of two conflicting interests is the more important). Certainly, "there is a set of specific values underlying our American legal order,"[23] in the sense that there is a specific set of ethical norms which American judges have traditionally implemented in the absence of relevant statutes or decisions. However, the cognitive validity of these norms cannot be inferred from such practices; nor does the fact that judges do apply these standards rather than others prove that they ought to continue to do so, as, *e.g.*, Northrop seems to maintain.[24] To argue that something is objectively valuable because it is being valued is to commit the naturalistic fallacy.

Another widespread variety of the same fallacy consists in "deriving" intrinsic value-judgments from pseudo-empirical statements which must be distinguished from mistaken empirical hypotheses. For example, the normative statement "tyranny is unjust and contrary to natural law" has often been deduced from either one or the other of the two following premises: "tyranny is generally disliked"; or "tyranny is contrary to human nature." The former premise is empirical, but false (and even if it were true, the normative conclusion would not follow); the latter does not express an empirical generalization at all, and is neither true nor false. Indeed, there is no observation which could either confirm or disprove that tyranny is congenial or contrary to human nature. "Human nature" is, at least in this context, devoid of empirical reference and functions as value-expression to commend whatever is said to be in agreement with, and to condemn what is said to be contrary to, human nature. Consequently, the two sentences "tyranny is contrary to human nature" and "tyranny is unjust" have the same, normative, meaning.

There are many expressions which, like "human nature" function either descriptively or normatively, depending on the context; *e.g.* "fundamental needs," "social necessity," "true" (for: desirable), "informed, unbiased, sound opinion"[25] (for: valuable), "born equal" (for: ought to be treated alike), "cannot" (for: ought not). When such amphibious expressions occur, the chances are that the author, while seemingly building a bridge from facts to values, is actually jumping over the unbridgeable gap which separates the realm of the "is" from that of the "ought."

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[22] Jerome Hall, *Living Law of Democratic Society* (Indianapolis, 1949), pp. 80–81.

[23] Charles E. Wyzanski, Jr., "Process and Pattern: The Search for Standards in the Law," *Indiana Law Journal*, Vol. 30, p. 150 (1955).

[24] F. S. C. Northrop, "Ethical Relativism in the Light of Recent Legal Science" *The Journal of Philosophy*, Vol. 52, p. 652 (1955).

[25] Cf. Hall's statement, quoted above, n. 22.

II. THE DENIAL OF THE NATURAL LAW THESIS

The Meaning of Denying the Natural Law Thesis. There has been widespread misunderstanding as to what it means to deny the natural law thesis, not only among natural law theorists but among critics of natural law as well. Hans Kelsen, perhaps the most influential contemporary opponent of natural law, has also done most to misrepresent the meaning and the implications of the very theory he is trying to uphold. To defend the denial of the natural law thesis it is therefore necessary to criticize critics and supporters of natural law alike.

Since the natural law thesis implies the epistemological theory of value-cognitivism, to deny the latter is to deny the former. Following a recent trend in philosophy, I shall use "non-cognitivism" to designate the denial of value-cognitivism. This terminology seems preferable to "ethical relativism" or "positivism," not only because these terms are ambiguous but also because they have themselves become value-words, with an unfavorable connotation. Non-cognitivism maintains that intrinsic value-judgments can be neither valid nor invalid in a cognitive sense; *i.e.* that they are not capable, in principle, of test by reference to empirical evidence or of proof on logico-mathematical grounds.

The denial of the natural law thesis is merely a special application of the epistemological theory of non-cognitivism to intrinsic moral judgments in law and politics. While it would be logically consistent to deny the possibility of validating certain ethical norms and still to hold that there are objectively valid value judgments in other areas, *e.g.*, aesthetics, I do not know of anyone who has adopted the position of siding with value-cognitivism generally but against the natural law thesis in particular.

The Validity of Non-Cognitivism. I believe the natural law thesis to be invalid because I hold value-cognitivism in general to be mistaken and non-cognitivism to be correct. As far as I know, all natural law theorists who have dealt in any way with the question of validation have used arguments similar to those I discussed. I indicated why I think that all these attempts to validate intrinsic value-judgments in general and alleged natural law norms in particular have failed. I am also in agreement with the positive arguments in favor of non-cognitivism, which I shall briefly summarize.[26]

Value-words do not designate objects, and it is misleading to use nouns such as "Justice" or "Goodness." Nor do value-terms stand for properties, and the adjectives "good" and "just" do not refer to characteristics of men, behavior, goals, or institutions.[27] A value-expression in an intrinsic value-judgment refers to a relation which holds between an evaluating subject and some object or event or state of affairs which he values intrinsically, whether positively or negatively. Accordingly, to say that freedom of speech is intrinsically good or just is to commend those who protect free speech, not to ascribe to them the quality of being good or just.[28] Hence, if A maintains that it is morally right to disobey tyrannical laws and B holds that disobedience to any law is wrong, A and B are not contradicting each other, but expressing their respective, albeit conflicting, value-commitments. The question whether the view of A or B is valid does not arise, because neither A's nor B's statement is either true or false, except in the limited sense that it does, or does not, reflect the speaker's actual value-commitments. Kelsen's statements "that value judgments have only relative validity" and "that only relative values are accessible to human cognition"[29] are therefore misleading. Intrinsic value-judgments have no cognitive validity (because they have no cognitive meaning); only the fact that something is valuable to someone is accessible to human cognition.

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[26] Cf. Charles L. Stevenson, *Ethics and Language* (New Haven, 1944); Alfred J. Ayer, *Language, Truth and Logic* (2d. ed.; London, 1946), ch. VI; R. M. Hare, *op. cit.*

[27] "Justice is primarily the quality of a social order. . . . But what does it really mean to say that a social order is just? It means that this order regulates the behavior of men in

Natural law theorists are likely, at this point, to accuse their opponents of being no less dogmatic than they themselves are made out to be. I would reply that non-cognitivism presupposes only the rules of inductive and deductive logic which everybody applies in everyday life as well as in science. Value-cognitivism, on the other hand, assumes the validity of certain intrinsic value-judgments in addition to these same rules. Yet, there is a fundamental difference between the former and the latter. For every conceivable value-judgment, there exists at least one alternative valuation which it is logically possible to adopt; but there is only one set of principles of inductive and deductive reasoning.

What the Denial of the Natural Law Thesis Does Not Imply. To clear up the misconceptions I mentioned before, it is necessary to point out what non-cognitivism in general and the denial of the natural law thesis in particular does not imply.

(*a*) *Non-Cognitivism and Empirical Science.* According to a widespread belief among both critics and defenders of natural law, non-cognitivism as to values entails non-cognitivism as to facts. Thus, Kelsen seems to think that there are only two possible positions: "philosophical absolutism," which believes in "the possibility of absolute truth and absolute values," and "philosophical relativism, which recognizes only relative truth and relative values."[30]

Actually, it is just the other way: value-cognitivists, especially of the Platonic variety, tend to contrast the certainty of the knowledge of good and evil

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a way *satisfactory to all men,* so that all men find their happiness in it. . . . *Justice is social happiness.*" This sounds like pure value-cognitivism, of the naturalistic brand; yet it was written by Kelsen (in Sayre, *op. cit.*, pp. 390–91).

[28] "Value-terms have a special function in language, that of commending; and so they plainly cannot be defined in terms of other words which themselves do not perform this function." Hare, *loc. cit.*, p. 91.

[29] Hans Kelsen, "Foundations of Democracy," *Ethics*, Vol. 66, pp. 38, 42 (1955).

[30] Kelsen, *loc. cit.*, p. 16. Kelsen adopts the latter position, but realizes that it leads to solipsism, a "peril" from which he then tries to extricate himself; *ibid.*, p. 17.

with the unreliability of empirical cognition. Non-cognitivism, while denying that intrinsic value-judgments have cognitive status, do not question the objectivity of empirical knowledge. However, by objective validity they do not mean that empirical hypotheses are absolutely true, but that they can be asserted with a certain degree of probability relative to a body of observational evidence. There is no "absolute truth" or "certain knowledge" except within a given deductive system.

(*b*) *Non-Cognitivism and Extrinsic Value-Judgments.* Since non-cognitivism does not doubt the objectivity of empirical knowledge, it cannot question the cognitive validity of so-called extrinsic value-judgments, for the simple reason that these are not value-judgments at all, but empirical statements to the effect that something is an appropriate means to a certain end. For example, given the intrinsic value-judgment that the protection of human life is desirable in itself, the assertion that punishing murder is just (as a means to that end) has the same meaning as the statement: punishing murder protects human life. The disagreement between proponents and opponents of the natural law theory is not about the objectivity of such empirical statements, but only about the possibility of validating genuine, *i.e.*, intrinsic, value-judgments. Indeed, most natural law theorists believe that natural law determines only what is intrinsically right and just, and rely on empirical science to find out how best (*i.e.*, most effectively) to implement these basic norms.

This distinction shows that non-cognitivism should not be made out to claim that value-language always lacks cognitive meaning. Expressions such as: "this is a good chair (or book or poison or law)" must be interpreted in their context. If the speaker or writer means to indicate that something conforms to a certain value-standard, then "good" functions descriptively, and the statement that such and such is good is subject to empirical test, hence cognitive. If he wants to signify that something is valuable in itself, then only does he make an intrinsic value judgment which has directive rather than cognitive meaning. Unfortunately many political and legal philosophers leave their readers in the dark as to whether their value-words should be interpreted in the intrinsic or the extrinsic sense, and in the latter case they often fail to make their underlying values-standard explicit.[31]

(*c*) *Non-Cognitivism and Value-Commitments.* Non-cognitivism does not maintain that value-words, even in the intrinsic sense, are meaningless, but only that they have normative, evaluative, directive, rather than cognitive meaning. Natural law theorists are therefore mistaken when they claim, as *e.g.*, Leo Strauss does, that the denial of natural law implies "the prohibition against value judgments in social science,"[32] or, as Brunner puts it:

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[31] I realize that the distinction between intrinsic and extrinsic value-judgments is an over-simplification. Usually, one does not select first some "ultimate" end and then considers the means; rather, one chooses between alternative states of affairs, each of which constitutes a whole network of means and ends, *i.e.*, of causal relations. Cf. below, section (*d*).

[32] Leo Strauss, *Natural Right and History* (Chicago, 1953), p. 52.

> If there is no sacred, eternal, divine, absolute law, there is no possibility of *denouncing* any form of law or polity or national act as unjust.[33]

Non-cognitivism denies the verifiability of intrinsic value-judgments but does not question the possibility or legitimacy of value-commitments, even in the social sciences, provided they are clearly characterized as such.

The same natural law theorists who claim that their opponents cannot logically make any value-judgments accuse them sometimes of being, on the contrary, committed to a specific set of values, namely those underlying totalitarianism of the extreme Right or Left. According to Brunner,

> The totalitarian state is simply and solely legal positivism in political practice, the abrogation in actual fact of the classical and Christian ideal of a divine "law of nature."[34]

This accusation is logically incompatible with the previous one, and just as unfounded. I have indicated that the dispute between the supporters and the opponents of the natural law thesis takes place entirely on the epistemological level and does not have any bearing on the level of normative ethics.[35] Non-cognitivism, while denying that intrinsic value-judgments have cognitive status, leaves everyone logically free to subscribe to any set of political and ethical norms. Conversely, the natural law thesis is implied neither by the advocacy of totalitarianism nor by the support of free institutions. Yet, the United Nations General Assembly adopted, in this day and age (December 10, 1948) a Universal Declaration of Human Rights which proclaims, in eighteenth century natural law phraseology, that "all human beings are born free and equal in dignity and rights" (Art. 1.) and that "everyone has the right to life, liberty, and security of person" (Art. 3). Evidently, the General Assembly did not intend to impose upon everyone the epistemological theory of natural law but merely to recommend to its member governments that they enact a certain kind of legislation.

In order not to give a one-sided picture, I should mention that non-cognitivists like Kelsen have made the analogous mistake of claiming that the natural law thesis implies a particular value-system—which could be the case only if this thesis were true. And so we have the amusing spectacle of natural law theorists and their opponents accusing each other of being necessarily committed to totalitarianism.[36]

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[33] *Loc. cit.*, p. 8.

[34] *Loc. cit.*, p. 7.

[35] "For the differences between intuitionists, naturalists, and non-cognitivists are differences in metaethics—in particular, they are differences about the nature of normative utterances—and do not necessarily entail any disagreement in normative ethics, that is, on questions about what is good or bad, right or wrong, etc." W. K. Frankena, "Symposium: The Concept of Universal Human Rights," in *Science, Language, and Human Rights* (Philadelphia, 1952), p. 190.

[36] E.g. Kelsen, *loc. cit.* p. 26. Contrary to Kelsen's often repeated claim "that almost all outstanding representatives of a relativistic philosophy were politically in favor of democracy, whereas followers of philosophical absolutism, the great metaphysicians, were in favor of political absolutism and against democracy" (*loc. cit.*, p. 34), almost all political doctrines have been defended by proponents and critics of natural law alike. Cf. Felix

(*d*) *Non-Cognitivism and Rational Choice.* Some natural law theorists have reacted to this as follows: admittedly, non-cognitivism does not deny cognitive status to extrinsic value-judgments or to other empirical statements but only to intrinsic value-judgments. Admittedly also, the denial of natural law neither precludes value-commitments nor entails any particular normative system. However, if valuations are but the expression of subjective value-feelings, all preferences are therefore capricious, all choices irrational, and all behavior irresponsible. Thus, according to Leo Strauss, the denial of natural law implies that

> we cannot have any knowledge regarding the ultimate principles of our choices, *i.e.* regarding their soundness or unsoundness; our ultimate principles have no other support than our *arbitrary* and hence *blind* preferences. . . . We cannot live any more as responsible beings.[37]

And John Wild criticizes the "extreme irrationalism" of the

> noncognitive or emotive theory of ethics which reduces the whole phenomenon of obligation to the subjective compulsion of *raw appetite* or desire.[38]

To deny the natural law thesis is not to deny that the criteria of rationality are applicable to choosing and acting as well as to thinking. Conversely, rational decision-making does not presuppose that intrinsic value-judgments have cognitive status. It would be paradoxical indeed, if rational behavior depended on belief in a mistaken epistemological theory.

To make a rational choice,[39] the decision-maker must predict the consequences of each of the alternative courses of action open to him in a given situation. His decision will be rational provided these anticipations are based on the total evidence available to him. Such predictions are, of course, true only with a certain degree of probability, and a decision may be rational, yet unsuccessful, and vice versa.

The decision-maker must finally arrive at a comparative evaluation of the alternative states of affairs which he has anticipated. This is the only part of the decision-making process which non-cognitivism considers "arbitrary," in the sense that there are no objective standards for establishing a preference rank order among alternatives. Assuming that the decision-maker's predictions are warranted by the available evidence, his decision is rational if he chooses that course of action whose anticipated consequences are, on the whole, more valuable *to him* than any of the states of affairs he could have realized in-

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Oppenheim, "Relativism, Absolutism, and Democracy," this REVIEW, Vol. 44, p. 958 (December, 1950).

[37] Leo Strauss, *op. cit.*, pp. 4, 6.

[38] John Wild, *op. cit.*, p. 215.

[39] One of the best introductions to this topic is Ward Edwards, "The Theory of Decision Making," *Psychological Bulletin*, Vol. 51, pp. 380–417 (1954), (with extensive bibliography). Cf. also: Jacob Marschak, "Toward a Preference Scale for Decision-Making," reprinted in Martin Shubick (ed.), *Readings in Game Theory and Political Behavior* (Garden City, N. Y., 1954), pp. 22–32. Felix Oppenheim, "Rational Choice," *The Journal of Philosophy*, Vol. 50, pp. 341–50 (1953).

stead. Accordingly, when persons with different preferences decide differently in similar situations their decisions may be equally rational.

Intrinsic value or preference judgments do not in general pertain to any of the alternatives which natural law theorists tend to view as "absolutes." As Dahl and Lindblom have pointed out,[40] most people do not prefer any of the "grand alternatives" but desire to reach compromises between such extremes as liberty and security, diversity and conformity, capitalism and socialism. Preferences differ only when the question arises which point on the scale is to be considered the desirable optimum. Valuations apply neither to extreme goals, nor even to single ends, but rather to those alternative states of affairs which the decision-maker anticipates and evaluates as *wholes*.

While different persons may choose differently, yet rationally, one and the same person "cannot have his cake and eat it." Someone who chooses incompatible goals in the mistaken belief that they can both be realized by means of one and the same course of action, makes an irrational decision unless his mistake was unavoidable in the light of the incomplete evidence available.

Thus, it is true that choice is a function of the degree of subjective preference as well as of objective probabilities. It is also true that unwarranted predictions lead to arbitrary preferences, irrational decisions, and erratic behavior. On the other hand, the correct application of the rules of inductive and deductive logic is a necessary and sufficient condition for arriving at preferences which are consistent and decisions which are rational.

In conclusion, I shall answer the value-cognitivist's possible objection that I have tacitly assumed the objective validity of at least one normative principle, namely of the command addressed to everyone: "act rationally!"—My reply is that I have been referring, not to the intrinsic value-judgment that to act rationally is good in itself, but to an extrinsic value-judgment, namely the empirical hypothesis: whenever you want to bring about the state of affairs which, under the circumstances, will be most valuable (or least disvaluable) to you, apply the rules of rational decision-making. To whatever degree (great or small) it is within your power to influence the future, rational decision-making will maximize the probability (great or small) that the state of affairs you will help to bring about will be valued *by you* as the best of all possible worlds.

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[40] Robert A. Dahl and Charles E. Lindblom, *Politics, Economics, and Welfare* (New York, 1953), p. 3.

COMMENT ON OPPENHEIM:

IN DEFENSE OF "THE NATURAL LAW THESIS"

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The core of Oppenheim's attack on what he calls the natural law thesis[1] is the contention that it rests upon an incorrect epistemology:

> To subscribe to the natural law thesis is to adhere to the epistemological theory of value-cognitivism. Value-cognitivism claims that there exist intrinsic value-judgments which are cognitively true or false, regardless of the speaker's or listener's intrinsic value-commitments.

In contrast to this view is the epistemological theory of value non-cognitivism, which tells us that

> Value-words do not designate objects, and it is misleading to use nouns such as "Justice" and "Goodness." . . . A value-expression in an intrinsic value-judgment refers to a relation which holds between an evaluating subject and some object or event or state of affairs which he values intrinsically, whether positively or negatively.

I take the foregoing to mean that, to predicate just or good of a law or of a man does not tell us anything about the law or man, but rather describes an attitude toward the law or man. Justice, as a noun, is misleading, because justice is not a "thing" or a "this"; it is not a substance but an attribute; not a real noun, but an hypostatized adjective, a quality of evaluating subjects, never of the objects of which the subjects themselves always predicate it. I think this last point particularly important, because grammatical forms are an important index to human consciousness of reality, and the grammar Oppenheim rejects is, so far as I am aware, universal. I doubt whether there are any developed languages in which "justice," "virtue," "nobility," etc., do not exist either as substantive nouns, or collective nouns referring to identical qualities distributed in particular objects. The human race, like M. Jourdain, has apparently been talking "the natural law thesis" all its life.[2]

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[1] He treats with indifference the distinction between natural right and natural law. I do not think it is always necessary to draw this distinction, provided one is aware when it does, and when it does not, make an important difference to the subject under discussion. For example, Oppenheim has a section on "Natural Law Based on Divine Revelation." I think that analysis would have shown that this expression is self-contradictory: a law based on revelation is by definition divine law; and divine law, by definition, is a different kind of law from natural law. The fact that some who call themselves natural law teachers base their doctrine upon revelation may be convenient for Oppenheim's argument, but that is no reason for accepting their self-characterization at face value. On this question see ch. VIII, "Natural Right and Natural Law," in my *Thomism and Aristotelianism* (Chicago, 1952).

[2] Oppenheim's war upon the interlocking deceptions of conventional grammar and natural right theory begins, appropriately enough, with the Declaration of Independence. The statement that "All men are endowed with certain unalienable rights" is, according to him, grossly misleading, if it is held to mean the same kind of thing as "all men are endowed with two eyes," or "all persons in the United States are endowed with the right

The theory of value non-cognitivism is then extremely paradoxical, and would drastically revise our conceptions of reality. This of course is no objection to it, for to be a scientist means to submit one's conceptions to the test of reason. But I think we should approach the issue with an awareness that much is at stake; for to assert that, when we talk about intrinsic right and wrong, we are talking only about our own tastes, *de quibus non est disputandum*, is to remove justice itself from the jurisdiction of the court of reason. Let us then see whether the sanction of reason can be given to this abdication of reason.[3]

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of free speech." "Surely," he says, "the framers . . . did not intend to make the obviously false assertion that all men do in fact have the same legal rights." Now I think it morally certain that the framers *did* intend to make the assertion, which is *not* obviously false, that all men do have some legal rights which are the same. These are their rights under natural law, not under positive law.

Let us examine some of these rights, held by the framers to be universal rights of man, to see whether their assertion is an obvious falsehood. We must first understand these rights as the framers understood them, not as Oppenheim understands them, if we are to judge of their truth or falsehood. I cannot here prove my interpretation to be that actually held by the framers, but the interpretation I offer will show that they *need* not have been either deceptive in their language, nor false in the inferences that they intended to be drawn from it. Let us assume that by the right to life and liberty, the framers meant the right of self-preservation, and all the means necessary thereto. Let us assume that they regarded self-preservation as a right, because they regarded it as the strongest human passion, and all other human passions, including the passion for truth, as weak and ineffective when opposed to it. Suppose that, for this reason, they regarded the true morality an enlightened self-preservation, and that they regarded all other moralities as false, because they were, inadvertently or otherwise, at war with human nature itself, which universally sought preservation above all else. To say that some men commit suicide is no more an objection to the empirical validity of the Declaration than to say that some men do not have two eyes is an objection to the second statement, or that some men are in jail is an objection to the third. The second statement *means*, that all men would have two eyes, if there were no damage to their natural physical development, and the former *means*, that all men would prefer self-preservation to any conflicting, alleged good, if they were not maimed in their intellectual development.

When the framers thought of some men as maimed in their intellects, they thought of the grounds alleged by divine right monarchy, and feudalism, as the basis for political obligation. These grounds they thought gross superstition, which no one with the knowledge of natural causes provided by modern science could believe in. The strength of the passion of self-preservation throughout all nature was a fact attested to by science. Hence governments constructed to satisfy this passion they thought in accordance with nature, and in this sense in accordance with natural right. It seems to me that one can argue against this view, by arguing against the analysis of the passions it presupposes, and the conception of man's relation to nature. But if the analysis and the conception are correct, the empirical validity of the statement follows.

[3] Oppenheim attempts to repudiate this characterization and insists that non-cognitivism does lead to what he calls rational choice; it is, however, confined exclusively to the choice of appropriate means. But I do not believe it is possible to deny rationality to the ends without denying it to the means as well. Our author himself places limits upon the choice of ends, in the name of rationality: "Someone who chooses incompatible goals in the mistaken belief that they can both be realized . . . makes an irrational decision. . . ." Why? If reason cannot help him choose between these goals, if it cannot point

All of us, at least prior to becoming value non-cognitivists, *believe* that when we call a man or law good or just, we distinguish something in the man or law, whatever that belief may in addition tell others about ourselves. We believe that our positive or negative evaluation is a consequence of our cognition of baseness or nobility, justice or injustice, in the man or law, and not the other way round. If this belief were unfounded and we were to abolish the "misleading nouns" from our vocabulary, we could then say only that we liked, or positively evaluated, or disliked and negatively evaluated the man or law. We could not say that the man or law expresses *my* idea of justice or nobility. For the expression "my idea of justice" only indicates how the idea of justice, which I regard as having an objective nature, appears subjectively to me. It would be like "my idea of Eisenhower," or "my idea of the American constitution." My ideas on these subjects may be grossly distorted, as indeed those of everyone in the world may be, but neither I nor anyone doubts, for this reason, that the things in question exist, or that there is an objective truth in regard to them. The *idea* of a just or noble man then implies the idea of justice or nobility, an idea which I implicitly grant to be the yardstick of *my* idea, the moment I use

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to a compromise or synthesis which transcends them, perhaps the pain of relinquishing either of the goals would be greater than the satisfaction of gaining one without the other.

The categorical imperative of non-cognitivism is to act so "that the state of affairs you will help to bring about will be valued *by you* as the best of all possible worlds." I think this is a valid goal for all political and moral action, but I do not see how it can be realized on the value non-cognitivist's premises. Without an idea of human happiness which is conceived as having cognitive status, inter-subjective communicability, and hence universality, I believe there is no rational way of predicting what course of action might bring about such a desirable state of affairs. The value non-cognitivist, it seems to me, assumes that if I bring about the state of affairs that I *now* think would be best, I will bring about the one that I would *then* also think best. But this assumption is clearly erroneous. If there is any brute fact of human experience, it is that success, no less than failure, is a cause of men's changing their goals. This is a special case of the more general fact that men, no less than circumstances, are constantly changing. The goals of youth are not those of age, etc. The man who is to evaluate the results of his own actions is not the same man as he who initiated them. Non-cognitivism takes no account of the dynamic of human life.

Specifically, however, the comparative estimate of consequences, which non-cognitivism holds to be the peculiar province of rationality, is, apart from an objective idea of happiness, impossible, for it leads theoretically to an infinite regress. Consider: I might estimate that course of action A is desirable, because it leads to state of affairs A′, which I now consider most desirable. However, the achievement of A′ will cause me to value, not A′, but B′, and my present degree of dissatisfaction will be reduplicated. Unfortunately, I cannot solve this dilemma by choosing B, since not B but A leads to the preference for B′. And so forth. It is no answer to this to say that such examples are by no means necessary. Of course they are not. Neither are any other examples. But the possibilities are demonstrably unlimited, and this fact provest hat predictability is a delusion. If there is no basis for predicting the degree of human satisfaction that will result from perfect rationality on non-cognitivist premises, there is no reason whatever for obeying the injunction, "Be rational." The only premise that makes the non-cognitivist's imperative intelligible is the proposition that non-cognitivism explicitly rejects: that there must be some grounds for continuing the same set of goals, the same state of character, through the shifting scenes of human life. But if such grounds exist, they must be susceptible of cognition.

such an expression. There is no way of letting the noun in, or the adjective which implies the noun, without the work of misleading being done. But positive or negative evaluations, in and of themselves, express nothing but what is agreeable or disagreeable to our passions. They tell us no more, perhaps even less, than do screams of pain or grunts of pleasure. They are no part of articulate language proper. What is purely subjective, as the value non-cognitivist tells us every intrinsic value judgment is, is incapable of communication.[4]

Let us see why this is so. Speech presupposes common experiences. If we speak of our feelings, it is because we believe that others feel what we feel. This conviction, we might observe, persists even after reflection teaches us that it can never be proved. We have no way of proving, of being certain beyond doubt that when we say "sweet" the word conveys the same thing to anyone else in the world. All we know is that most people act as if it does, and we think it most improbable that they would so act if they did not experience "sweet" as we do. The whole web of language is built upon this kind of assumption; and this, in itself is not normally held to detract from the cognitive status of the objects to which language refers.

The common experience presupposed by speech presupposes in its turn a world of objects common to the speakers. Accordingly, the inter-subjectivity of language presupposes the *objectivity* and *identity* of the communicating subjects. They must be objective, because there can be no communication without self-consciousness, and self-consciousness is consciousness of one's self as an object, because it is consciousness of one's self as an "other." They must be identical, in the sense that the cause of our access to the world of objects must be conceived as being the same, for the objects to be conceived as being the same. In explaining a novel experience to someone else, we assume that he can imagine it, and that he could, in principle, experience it as we do. To the extent that we do not regard this as possible, we do not believe communication is possible. We do not try to explain the colors of a sunset to a man blind from birth. And, it might be added, in a world of the blind a single man with vision could not believe in the reality of the visible world.

The theory of value non-cognitivism, as it seems to me, is nothing but a partial application of the age-old discovery that the world of objects presupposed by the world of language about objects, cannot be demonstrated to exist. To say this, of course, is to say nothing but that the condition of all demonstration cannot itself be a subject of demonstration. From the indemonstrability of such a world, skeptics have often proceeded to the denial of its real existence, or at least to the denial that we have knowledge of its existence. The curious thing about value non-cognitivism, as expressed by Oppenheim, is that its total skepticism concerning the objectivity of "values" is matched by an equally complete credulity concerning "facts." Non-cognitivism, he says, "does not doubt the objectivity of empirical knowledge." However, in what follows I shall show that there is no ground for such discrimination. What Oppenheim calls "intrinsic value-judgments" and what he calls "empirical knowledge" are both, in principle, cognitions of an objective reality, or neither are. The entire external world, the world external to our sensorium, and premised in the grammar which testifies to a common human consciousness of such an external world, must be assumed to be real or none of it must be. This does not, be it noted, mean that there is an objective reality to correspond to every noun, whether man, ghost, or angel. It means that, only insofar as one ascribes objective reality to the world in which these objects are supposed to exist, can one discuss the truth or falsity of sentences which use these nouns as if they did refer to something real. And, of course, these nouns, like hydra, satyr, or mermaid, must be compounded of qualities that are undeniably objective and real if they are to be communicated, even as fantasies.

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[4] Oppenheim says that non-cognitivism "does not maintain that value-words, even in the intrinsic sense, are meaningless, but only that they have normative, evaluative, directive, rather than cognitive meaning." I will try to prove in what follows that they could not have the other meanings if they did not have cognitive meaning.

First, let us remark that the objectivity of the external world cannot be demonstrated. Most of us, usually at an early age, have had the solipsist fantasy that nothing exists outside our individual consciousness (a fantasy readily communicated). Nevertheless we realized that, while unable to disprove such a possibility, we could only act *as if* it were not true. From time to time faint impulses of doubt return. Some, like Dr. Johnson, need only kick an occcasional stone to set their doubts at rest. Others, like David Hume, erect whole philosophical systems that insist upon the fantastic nature of the allegedly "real" world, but promptly endow the fantasies with the metaphysical properties, if not the metaphysical status, of the banished reality. Hume even demonstrated that individual consciousness, solipsist or otherwise, was a pure, unsupported fiction, so that his friend Robertson was forced to wonder whether the *Treatise of Human Nature* was in fact written by one David Hume. The point about such skepticism, as it seems to me, is that (to use an unscientific expression) it doesn't get you anywhere. Physicists may debate the nature of the universe; they do not question whether it has objective existence. The three blind men each gave a different account of the elephant, depending upon whether he had hold of the trunk, the tail, or the ear. Yet each knew that he had hold of something, and would have been foolish to abandon this conviction as "pure subjectivism" because the others reacted differently to the same object. Clearly, it was possible, by sticking to the conviction that something real was at hand, for the blind men to frame an hypothesis to account for a single object possessing the differing qualities separately experienced by the separate men. Political scientists, if they are possessed of all their faculties, have even less reason than the blind men, to abandon the objectivity of justice, because they find contradictions in the differing accounts of it.

Let me now show why "intrinsic value judgments" and "empirical knowledge" are equally subjective and, for this reason, equally objective. Take any so-called statement of fact, e.g., "this is a chair." Such a statement obviously does not mean that "to be a chair" is the same thing as "to be this." Unless I knew "what it is to be a chair" before I saw "this" I could not recognize "this" as a "chair." I could not derive my knowledge of "chair" from any particular chair, nor from the observation of any number of chairs, for in each case the identification of "this" would be based upon the prior intellectual cognition of "what it is to be a chair." Sensation, or a judgment of the mind utilizing only the data of the senses, is insufficient to make possible a judgment of fact. Empirical knowledge, properly so called, is a synthesis of sense data with definitions, universals, in terms of which the sense data are ordered. Where these universals come from, how they arise in us, and what their manner of existence may be, are also age-old questions, perhaps the most difficult ever conceived by the human mind. That they do not arise in us *without* sensation, does not mean that they arise *from* sensation, as Kant showed in his criticism of Hume. What is indisputable, I think, is that every noun, such as "chair," is entirely subjective, in that it is *a priori* with respect to the sense-data it orders, and pre-exists in the mind of the man making the judgment of fact before he makes it. Yet it is objective, insofar as it forms a predicate which is inter-subjectively communicable, and presupposes an order of things common to the speaker and his actual or potential addressees. If the reality denominated by this predicate were not conceived as objective, and the noun the reflection of that reality, its effect rather than its cause, then articulate speech would be mere solipsist fantasy.

valid?

We may go further. If I make the judgment, "this is a good chair," I do not thereby premise any reality different from that assumed to exist in my merely factual statement. I merely affirm that the object before me fulfills adequately or completely the requirements specified in my concept of a chair. If I find the chair wobbly, I may say that it is not a very good chair, indicating that the object does not live up to specifications, for wobbliness is excluded from the unqualified concept of chair. From this it will appear that the expression "chair," without qualification, means the same as "good" or "perfect" chair. This may appear paradoxical, but admits of a ready explanation. When we speak of a poor or defective chair, we are really speaking metaphorically, for the defective chair is not, in the strict sense, a chair. The unqualified term applies only to the perfect object. Consider for a moment an object possessed of all the attributes of "chairness": the perfect chair. Suppose that first one leg is damaged, then the damage is extended successively to other parts; it becomes more and more defective, until we can only say, "it was a chair." Finally it becomes a mere heap of broken lumber, unrecognizable as bearing more relation to a chair than to any other possible wooden object. When did it cease to be a chair? Only when it lost all traces of its original form? If it did not cease to be a chair in some measure when the first damage was done, it did not cease to be a chair when the last damage was done. What has ceased, in even the smallest measure, to be a chair is, to that extent, not a chair. But the concept chair, with which we discriminate, say, tables from chairs, has no deficiency in "chairness." The resemblance of the defective chair to a "true" chair enables us to call it a chair in virtue of this resemblance. But resemblance is not identity, and we are in fact employing analogy. It is because, in common parlance, we frequently employ words in such a metaphorical sense, that we use "good chair" in contradistinction to "poor chair," although in the strictness of logic "good" adds nothing to "chair." I think this analysis is borne out by the fact that the unqualified substantive is frequently the most emphatic form of the superlative. "That *is* a chair," may convey the sense of "that is the best of all possible chairs" with greater emphasis than is possible in the latter version.[5] We conclude then that a judgment of the "value" of a chair is a judgment that the object under consideration has more or less "chairness," and such a judgment of "value" is not different in kind from the judgment of "fact" that "this is a chair."

It may be objected that to talk about chairs in a discussion of natural right is irrelevant, because chairs are not natural, but artificial objects. The definition of chair, but not man, can be known independently of observation. We can imagine a chair for ourselves without ever seeing one, if only we conceive the purpose for which chairs are made. Or, if we do not have such a purpose ourselves, it can be communicated to us by someone else. The existence of actual chairs is verifiable empirically because, but only because, we have authoritative knowledge of the possible existence of such objects.

Now, in dealing with this objection, it is important to be clear as to what is, and what is not, in dispute. What is not in question is whether we have objective knowledge of "values" as well as facts." The subjectivity of the universal term, in virtue of which we judge of the existence of "man," "horse," "dog," "tree," or "stone," is neither greater nor less than it is in the case of "chair." Neither is the inter-subjectivity, and hence objectivity, of this universal term. Consequently no so-called judgment of value can be more nor less a cognitive judgment than any judgment of fact. Judgments of the excellence of objects may become moral judgments when the object under consideration is a man, since moral judgments are judgments of human excellence. But in the same way that we judged a chair to be good in virtue of the presence in the wooden object before us of "chairness," so we judge a man good in virtue of the presence of humanity in the living organism before us. The question then is whether we are to treat all our empirical knowledge of man, which must perforce include our knowledge of human qualities, not excepting moral qualities, as merely hypothetical, and in this sense arbitrary and subjective.

This question goes to the root of the issue raised by modern science and philosophy in its pristine form in the seventeenth century: whether we know only what we make, and whether knowledge of "nature" is not therefore essentially hypothetical, since it is essentially knowledge only of definitions which are constructs of our own mind. That is to say, is not every natural object, indeed is not every system of natural philosophy, essentially an artifact, quite as much as a chair? Is there any more intrinsic connection between the matter out of which "man," "horse," "dog," or "planet," are constituted, and the "being" or form of the objects answering to those definitions, than there is an intrinsic connection between the wood of the chair and the chair?

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[5] See Antony's speech over the body of the dead Brutus:

> His life was gentle, and the elements
> So mixed in him that Nature might stand up
> And say to all the world, "This was a man."
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> Julius Caesar, Act V, Scene v, 73–75.

The typical answer by modern philosophy and science is that there is no such intrinsic connection. The ground for this negative is the famous division of qualities into primary and secondary. The primary qualities (*e.g.*, "mass" in the seventeenth century, "energy" in the twentieth) are conceived as the genuine reality, the secondary (the forms, colors, sights, sounds, of "our" world) as epiphenomena, the result in us of the impact upon us of the primary qualities, the "real" substances. A paradoxical curiosity about the relation of the primary and secondary qualities, is that the human mind has no direct access to what is regarded as "primary": we never see "mass" or "energy," which are abstractions depending upon a whole train of assumptions; what we see with our eyes are only the objects formed with the secondary qualities. We regard as less real the world to which we seem to have direct access than that to which we have access only by means of assumptions. Now there can be no doubt that the method of abstraction practiced by modern science has given us great power over nature: there is, perhaps, little reason to doubt that the atoms, to which we have access only *via* hypotheses, are as real as the lump of uranium ore in the prospector's hand.

But whether nature has in the course of the modern centuries become more intelligible, whether our progress in releasing the forces of nature has in fact been progress in comprehending her secrets, may well be doubted. It must certainly be doubted by anyone who regards the problem of human nature as not inferior in dignity to the problem of subhuman nature. For the problem of understanding human nature, the especial concern of political scientists, can never be solved by the method of modern science, insofar as that method conceives of man as an epiphenomenon, as a by-product of a more fundamental sub-human reality. While plants, and animals other than man, may without self-contradiction be conceived as forms which are epiphenomena of some more fundamental sub-human reality, man cannot be so conceived. Intelligence cannot be regarded as a by-product of unintelligence. The "what" of man, his self-consciousness, his awareness of himself as an "other," linked by the symbols of articulate speech to other selves, and linked not merely by these symbols, but by an intelligible reality of which the symbols are symbols, cannot be conceived as the effect of an unintelligent cause. For in that case man's intelligence would, like the secondary qualities, be regarded as an illusion, corresponding as it would to nothing in a reality outside man's brain. But the doctrine of an unintelligent primary reality, being itself a product of man's brain, would also have to be regarded as an illusion. The doctrine that man, the intelligent being, is "caused" by an unintelligent first principle, cannot then escape self-contradiction. Intelligence is an irreducible reality.

The doctrines of the dualism of mind and matter, man and nature, etc., which have characterized the modern struggling with this difficulty, are of course not solutions, but only reformulations of the problem. The distinction between "facts" and "values," characteristic of present-day social science, is but another such dualism. Yet if intelligence is an irreducible "fact," then the various qualities, including justice, which are manifestations of man's intelligence are also facts. In answer to the problem posed above, we would have to say then, that however hypothetical, however arbitrary or subjective may be our knowledge of natural objects other than man, our knowledge of man himself cannot be so regarded. For if man himself is believed to be but a construct, a mere hypothesis, then we are reduced to the total skepticism mentioned above, a skepticism which does not help us correct erroneous conceptions of reality, but abandons all possibility of correcting such errors.

Oppenheim complains that adherents of what he calls natural law never go beyond mere assertion, when they say that something they regard as a matter of duty or obligation takes precedence over some conflicting duty or obligation asserted by someone else.

> But the most important argument against ethical *a priorism* in its Platonic or Aristotelian variant can be put in the form of the rhetorical question: If A claims that he has "grasped as absolute and universal necessity" that tyrannical laws ought to be disobeyed and B retorts that the moral duty to obey all positive law is "grounded in the abstract-universal nature of things," by what objective, *i.e.* inter-subjective criteria shall one decide whose reason is pure and whose sense of right is wrong?

First, let us say that this question is indeed rhetorical, since no classical natural right doctrine would ever ground any rule of action in universal necessity. Aristotle said of the things just by nature, "all is changeable." All moral action, according to Aristotle, is in accordance with prudence. Prudence dictates that we always seek the greater good, or the lesser evil, in any given instance. There is no "abstract-universal" way of knowing that resistance to tyranny will be productive of more good than evil. It is obvious that no one can tell what action will be right without attention to the circumstances in which the action takes place. Oppenheim's rhetorical suggestion that natural right has no concern for the consequences of intended actions is grossly misleading. Natural right is concerned, rather, with a means of evaluating the results of proposed courses of action.

Let us then ask a different kind of question. Ought we, in our political behavior, to "preserve, protect, and defend" any regime, without regard to whether it is tyrannical or non-tyrannical? Ought we not, apart from personal inclinations, tastes, or convenience, to avoid the one, and promote the other, as far as in us lies? Let us frame the case of a genuine, not rhetorical "conflict of values." Suppose we argue the case with an unreconstructed Nazi, who agrees with us that will and reason are two fundamental ingredients of humanity, but insists that will is paramount, and reason instrumental; that will dictates the goal and reason instructs the choice of paths to it; that reason is therefore valuable as a means to the strengthening of our will-power, and that the expression of will-power, above all by the subjection of others, is of the essence of man's humanity. In war, the conflict of wills is at its most intense, and therefore it is in war, not in peace, that man's highest good is achievable. To this, let us counter what I think would be the credo of liberal-democracy. Not will, but reason, is the paramount factor in man's humanity. Not subjection of others, but understanding of ourselves and others, is the highest expression of this essence. Warlike activities are not ends in themselves, but can be means to an end. The cultivation of reason needs both peace and freedom, and good men will fight for these conditions, when they cannot have them any other way. But no sane man, who could have peace and freedom without war, would go to war.

How can this contradiction of one position by another be resolved? Oppenheim, I think, would have to let the two assertions stand in conflict, since they rest on conflicting "value" judgments. But I believe that the Nazi position can be shown ultimately to contradict, not only what the liberal-democrat says, but what the Nazi himself says. If the experience of man's humanity were fundamentally equivocal; that is, if what we meant when we said "man" were not really everywhere the same, this would not be so. Most people, however, do not say everything that is implied by the expression "man," and one man's partial understanding may very well contradict another man's partial understanding. A full understanding of the meaning of the human experience of man's humanity, the experience which underlies our perception of human beings, may not be available to confront every so-called "value judgment." Nevertheless, there is sound reason to hope that the full explication of the assumptions involved in one judgment of what a good man is, will lead to agreement with the fullest explication of the assumptions of every other such judgment. Let us turn to the case in hand.

The Nazi, I believe, if he were asked to say why subjecting others to his will was good, would answer that in this he found his greatest satisfaction. Yet in contemplating such satisfaction, he would realize (if he thought it through) that this satisfaction would be denied him, if he were master of the world, surrounded exclusively by slaves. It requires the testimony, not of slaves, but of other masters, to be convinced of one's mastery. And one must be convinced of one's mastery to receive satisfaction from it. He depends, at the least, upon the praise and fellowship of fellow master race members. But, by equal reason, the master race itself cannot know itself to be a master race in a world in which there are only slaves, and no enemies. Its sense of its own mastery is dependent upon the possibility of war. If then, through victory in war, a master race extinguished all actual or potential equals, all enemies, it would have to turn upon itself. The master-folk, having eliminated all enemies, would have to make enemies of friends, in order to achieve the good life. But, in making enemies of his friends, which his commitment to war logically entails, our Nazi would be destroying the basis for the satisfaction he now takes in contemplating victory in war. The Nazi would finally realize that he needs friends, not merely for the satisfaction that it gives him in purely self-regarding activities, but for their own sake. Life without friends cannot be consistently regarded as a good thing, and a person who regards war as better than peace cannot consistently act on his principle, without ultimately acting to destroy the basis of all friendship.

No one, it will be recalled, placed a higher value on comradeship than the Nazis; but although they may not have realized it, they acted (demonstrably, we think) to destroy the basis of all comradeship in the world, including their own. On the other hand, the cultivation of reason is consistent with friendship, not contingently, as a means to egotism, but essentially. We cannot cultivate reason without friends, and in doing so we act always to strengthen the bonds of friendship, never to destroy them.

Finally, a word about the theory of obligation in natural right doctrine. Why "ought" the Nazi to prefer liberal-democracy? Such an ought is *not*, I maintain, a command in the imperative mood proper. "Thou shalts" and "thou shalt nots" belong to positive law, whether human or divine. The imperatives of natural right have the character of the "then" clause in an "if . . . then" proposition. "If you would be happy, then you must be virtuous." What frequently obscures the "if" clause is the fact that, as Aristotle showed in the first book of the *Nicomachean Ethics*, all men *do* desire happiness. Nevertheless, the command as such is hypothetical, not categorical. To conclude, I would say that Nazis ought not to be Nazis, because human well-being, including that of Nazis, would be something irrational, if it were what the Nazis say it is. The element of reason in man cannot be subordinated to the element of will, without subverting an order in the soul of man which all men, when they think clearly and consistently, recognize as the basis of their cognition of humanity. A man may reject the claims of reason upon him, but he cannot then, at the same time, in a manner consistent with the humanity still in him, call himself a good man.

NON-COGNITIVIST REBUTTAL

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1. "*Facts.*" Jaffa holds value non-cognitivism (NC) to imply both "complete credulity concerning 'facts' " and "total skepticism" about facts. One and the same epistemological theory can hardly be akin to naive realism as well as to skepticism. NC implies neither. As an outgrowth of modern empiricism, NC considers concepts such as "man," "chair," "atom" as constructs, and statements such as "man is a political animal," "this is a chair" as hypotheses. Empirical hypotheses are scientifically meaningful if they can be tested, however indirectly, by observational data. Most of Jaffa's comments fail to meet this criterion of meaningfulness because they contain words such as "reality," "order of the soul," "man's humanity," "Justice," which cannot be operationally defined. "The objectivity of the external world cannot be demonstrated," Jaffa concedes. Then why talk about it? Physicists never "debate the nature of the universe" and never ask "whether it has objective existence." Physicists establish empirical laws in order to explain past and predict future events (not "reality"). Political scientists do the same—unless they turn metaphysicians.

2. "*Justice.*" To argue that there is an abstract entity, Justice, because the word "Justice" occurs in common speech, is like proving that God exists because "God" exists. Everyday language is a treacherous guide in the realm of epistemology and science. While denying that "just" refers to a quality, NC does not hold that, "to predicate just or good of a law or a man does not tell us anything about the law or man." By saying: "This law is just" I indicate that I approve of this law by virtue of its having a certain characteristic (*e.g.*, that it protects freedom of speech).[1]

3. "*Tastes.*" By commending something as just or good, we are not "talking only about our own tastes" but expressing our value-commitments, *de quibus est disputandum* to the extent to which they can be shown to be rational or irrational (but not cognitively true or false). NC entails no "abdication of reason."[2]

4. *Proving value-judgments.* The value-judgment: "this law is just" can of course be proven by deducing it from the value-judgment: "promoting freedom of speech is just" and the empirical statement: "this law protects freedom of speech." The same law can be proven unjust by reference to a different standard, *e.g.*, that propagating some particular dogma or party line is more valuable than freedom to criticise it. It is the possibility of validating such

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[1] Nor does NC consider Justice as a "quality of evaluating subjects." This would imply that, if I say: "you are just," then I am just.

[2] Students of the political process would deny that, "What is purely subjective . . . is incapable of communication." By means of persuasive communications, the "influentials" cause others to adopt their own preferences.

general norms which is at issue. Jaffa does not demonstrate that this can be done. By showing that the Nazi ideology comprises two incompatible norms, he proves that it is *irrational* to adopt both, not that it is *mistaken* to adhere to either.[3]

5. *Natural Law.* I made no "rhetorical suggestion that natural right has no concern for the consequences of intended actions." Political and legal institutions come about as consequences of intended legislative actions; the natural law thesis claims that some institutions can be shown to be intrinsically just. If natural law norms could be expressed by "if . . . then" propositions, they would be empirical statements instead of intrinsic value-judgments. "If you would be happy, then you must be virtuous" cannot be considered a natural law norm by either critics or defenders of the natural law thesis. It is an empirical statement, and a false one: Some non-virtuous people have been happy (in any sense of these two adjectives). That statements such as this last one happen to be true explains the appeal of the natural law thesis. Yet, natural law cannot change such uncomfortable truths; it can at best act as a tranquilizer.

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[3] Incidentally, it is not true that "Life without friends cannot be consistently regarded as a good thing." It can—by anyone who values power highly as compared with friendship.

POLITICAL RIGHTS AND ADMINISTRATIVE IMPARTIALITY IN THE BRITISH CIVIL SERVICE*

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Recent forays into administrative theory have impaired the neat dichotomy between politics and administration that was postulated, either as description or as ideal, by *fin dé siècle* political scientists and reformers.[1] The intertwining of policy formulation and policy execution is a recognized fact of the administrative process. The questioning of this early dogma of public administration has opened up speculation as to what the proper relationship between the two aspects of the governmental process ought to be. Dilemmas have been identified but no systematic and fully acceptable solution has been propounded. Evidently, an answer cannot be given without delineating and understanding the matrix of politics in which administration inevitably is imbedded.

The advent of the Eisenhower Administration brought vividly to the fore a number of problems in administrative theory centered around such concepts as bureaucratic loyalty, enthusiasm, responsiveness, patronage, and morale. Attempts to find a more effective and respectable technique for recruiting political executives to positions of a policy-making character (such as the Administration's establishment of Schedule C) aroused discussion among students and practitioners.[2] Basic problems of the public service were the theme of the Sixth American Assembly, at Arden House in 1954,[3] and wider public interest was stimulated by the Second Hoover Commission's report to the Congress, *Personnel and Civil Service,* which embodied most of the recommendations of its Task Force, headed by President Dodds of Princeton.[4] Each of these groups has contributed raw materials for administrative theory by (1) describing the conditions of government employment in the United States, (2) analyzing them in terms of values and viewpoints, (3) relating administrative problems to the context of politics, and (4) formulating recommendations for implementing the concept of a more democratic, responsible, and effective public service. None of the analysts have pretended that full answers, binding for every time and place, can be given. Indeed, if any single theme runs through these discussions, it is that the problems of the public service must be treated chiefly as consequences of the institutional and value structure of a nation's political system. The formulas for administration inherited from a simpler era need reappraisal in the light of the more complex considerations that the current literature provides.

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* The author is indebted to the Board of Foreign Scholarships of the Department of State for a Fulbright grant for study in Great Britain in 1953–54, which enabled him to collect the data on which this essay is based.

[1] E.g., Dwight Waldo, *The Administrative State* (New York, 1948), pp. 104–129.

[2] For examples, see Arthur S. Flemming, "The Civil Servant in a Period of Transition," *Public Administration Review,* Vol. 13 (Spring, 1953), pp. 73–79, and Norton E. Long, "Public Policy and Administration: The Goals of Rationality and Responsibility," *same,* Vol. 14 (Winter, 1954), pp. 22–31.

[3] The American Assembly, *The Federal Government Service: Its Character, Presitge, and Problems* (New York, 1954). This series of essays contains contributions by Herbert Kaufman, Herman Miles Somers, Harvey C. Mansfield, Frederick and Edith Mosher, and Everett Reimer.

[4] Commission on Organization of the Executive Branch of the Government, *Personnel and Civil Service: A Report to the Congress* (Washington, 1955); *id.,* Task Force on Personnel and Civil Service, *Report on Personnel and Civil Service* (Washington, 1955). The similarities between the recommendations of the American Assembly and the Hoover Commission are striking.

Observers have noted that concepts such as sovereignty, responsiveness, neutrality, loyalty, professionalism, and efficiency, often considered as complementary essentials of the public service, may be rooted in basically incompatible value preferences and may lead to quite confusing policy consequences. In the area of personnel policy, for instance, "good administration," however defined, appears to entail value choices which require some kind of ordering or hierarchical arrangement. How responsible officials choose to rank these concepts often depends on the interplay of attitudes and political forces in the governmental process.

One such issue deserving re-examination is the relation of the idea of staff political neutrality to notions of responsiveness, loyalty, and morale within the service. The belief that no civil servant ought to be seriously involved in politics or be vested with power to influence the political judgment of the community has to be reconciled with belief in the desirability of political responsiveness, which presupposes that he must be alert and submissive to changes in the public will as expressed in political decisions. Even if these concepts can be reconciled by the device of a politically responsible department head, the issue of staff rights and morale remains to be resolved. The basic question is this: does the value of maintaining public service on merit principles, with its members politically sterilized (and hence, it is supposed, impartial), outweigh other values, such as staff enthusiasm for policies, contributions by civil servants to the life of politics, and the right of public employees to influence their employer through political means? For unless it can be shown that limited political activities by civil servants need not in fact impair public confidence in the integrity of the merit system, the two sets of values are in conflict. The motives underlying the Hatch Acts in the United States typify one response to the question: civil servants must be protected from the badgering of parties and the public must be protected from the possibility of partisan administration by denying to government employees all but the most passive forms of political involvement.

This American attempt to resolve the neutrality problem is not the only possible approach. During the past decade Great Britain, also a democracy, has re-examined the political status of its civil servants and arrived at a strikingly different method of reconciling the value claims of the parties to the administrative process. The neutrality doctrine was a British contribution to the art of administration; and although there are decided differences between its institutions and political climate and those of other Western countries, British experience is instructive. At the least, it provides concepts and data for a badly needed comparative study of this ubiquitous theme in public personnel policy. The following pages are an attempt to describe the institutional, attitudinal, and historical forces that have worked to create the present *modus operandi* in a nation that prizes both the values of heightened administrative responsibility and expanding civil rights.

I. THE SETTING OF THE CONTROVERSY

All modern democracies have had to consider the scope of political rights for state employees. The form the question takes, the seriousness of the consequences of action or inaction, and the range of available solutions are appreciably affected by factors unique to the nation itself. These include not only the general arrangement of government and parties but also public attitudes and the ethic of the civil service.

No characteristic of the British system of government is oftener stressed than its easy and definite location of responsibility. This is facilitated by its unitary and parliamentary forms of organization; it is virtually guaranteed by the operation of a highly disciplined two-party system. Administrative officials need not be uncertain about the sources of public policy or confused by legislative interference with established executive practices. The unwritten rule that individual ministers are responsible for the policies of their departments and for the official behavior of their staffs makes for the fairly smooth operation of bureaucratic principles and lessens the chance that frustrations, caused by the proliferation of authority, will develop among lower officials. Except for ultimate control and specific action in appropriation and superannuation matters, most decisions concerning the conditions of work in the service are set down by the Cabinet or the Treasury rather than by Parliament. Cabinet control over the parliamentary process, enforced by party solidarity, has made it virtually impossible for groups in the legislature to impose upon the executive any personnel practices opposed by administrative leaders. Neither the Opposition nor disaffected sections of the majority party have been able to strike at the power of the Government by constricting the range of civil service political activity. These two factors—clear location of responsibility and executive control over the conditions of staff employment—enable Great Britain to isolate its officials from many areas of partisan pressure and controversy more effectively than nations in which responsibility is dispersed and legislative interference with the details of administration is an accepted practice.

The political rights question has also been affected by the timing of the advent of democracy and the introduction of merit principles into the public service. In Britain the merit system preceded by several decades the appearance of mass democracy and mass political parties. The era of patronage gave way to the present arrangement without an intervening period of spoils justified on ultra-democratic grounds. The British approach to government has never been Jacksonian. Instead it has emphasized the gradual democratization of aristocratic structures of action. This puts the problems of rights and neutrality in a very different light than in the United States. Until recently British political leaders have not taken seriously the socialist plea for "representative bureaucracy," and even today the idea that the civil service is and ought to remain a class apart has strong supporters in all major groups.[5]

The absence of widespread patronage has deprived the political parties of a potent weapon for influencing civil service behavior and extorting financial support from "grateful" public employees. The Government need not frame special rules to protect its employees against the parties; nor do any of the major parties depend on significant monetary support, either voluntarily subscribed or otherwise, from civil servants.

Few Englishmen today take issue with Graham Wallas's characterization of their civil service as "the one great political invention of Nineteenth Century democracy."[6] Although the usual jokes about red tape and petty bureaucrats abound, the prestige of the administrative services remains high, the social status of the policy forming class is considerable, and the reputation of the service for fairness, political impartiality, and efficiency is firmly established. No speech on civil service matters, however critical, is regarded as in good taste unless it begins with a paean to the innumerable virtues of the bulk of government employees. Even Labour Party spokesmen, who before World War II were somewhat apprehensive about the ability of civil servants to serve a Labour Government loyally, now express admiration for the success of the service in adapting to varying political programs.[7] This fund of good will protects the entire civil service against charges of administrative bias occasioned by a few isolated lapses. It also serves to keep officials sensitive to any behavior that might tarnish the service in the eyes of the public.

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[5] For suggestions that the British civil service be drawn from a broader social base, see J. Donald Kingsley, *Representative Bureaucracy* (Yellow Springs, Ohio, 1944), pp. 261–283, and R. K. Kelsall, *Higher Civil Servants in Britain* (London, 1955).

[6] *Human Nature in Politics*, 2nd edition (London, 1920), p. 263.

[7] Lavish tributes to the integrity of the civil service abound. Among them might be cited the Webbs' statement that " . . . not the least of the successes of the British political Democracy has been its gradual development of an absolutely honest, highly capable and habitually faithful Civil Service, which takes a pride in serving loyally any Ministry whom the House of Commons calls to power, and may always be counted on to carry out, to the greatest advantage, any decision come to by that Ministry." *A Constitution for the Socialist Commonwealth of Great Britain* (London, 1920), p. 89.

For similar views of Labour leaders who have had extensive contact with civil service practices, see Hugh Dalton, *Practical Socialism for Britain* (London, 1935), p. 11; Herbert Morrison, *Government and Parliament* (London, 1954), pp. 334–336; and Clement Attlee, "Civil Servants, Ministers, Parliament, and the Public," *Political Quarterly*, Vol. 25 (October–December, 1954), pp. 308–315.

Prior to 1945, some elements in the Labour Party were convinced that the civil service was so permeated by upper class ideals that it would never be able to give a socialist government impartial and enthusiastic service. See, for example, Harold J. Laski, *Parliamentary Government in England* (London, 1938), pp. 317–318, and Raymond Postgate, *Life of George Lansbury* (London, 1951), p. 295.

Discussion of the permissible range of political activity starts with the fact that the civil service has over the years cultivated a particular ethic. This quality combines dignity, dedication to the public service, and a certain clannishness. It is felt most strongly in the upper reaches of the civil service but permeates the responses of the lower echelons as well. Its sources are somewhat mysterious, but historically it is related to the social basis of state employment that made a career in the public service a respectable outlet for the talents and energies of the aristocratic and upper middle classes in the eighteenth and nineteenth centuries. The civil service is not above criticism in Britain, nor is it particularly well-paid. But it has been able to develop a unique code of behavior, and it has enjoyed the advantages of a high degree of deference shown to those whose positions of authority are historically linked with the "better" classes. Bagehot's insights into the deferential character of the British people have retained their relevance long after the demise of Victorian society. In a sense the public reputation of the service depends as much on a faith in the superiority of the ruling administrative class as it does on a recognition of the generally outstanding record of the service for fairness, judgment, and effectiveness.

The social setting thus favors the presumption that civil servants can avail themselves of political opportunities (safeguards having been established) without too much danger that their actions will alienate an already suspicious and unsympathetic public. They breathe an atmosphere in which social pressures are powerful instruments in insuring, if not conformity, at least a large degree of propriety.[8]

The higher one goes on the hierarchical ladder, the more apt one is to find the effects of this ethic. Upper civil servants, in return for status, prestige, power, and freedom from monotony tend to eschew conflicting loyalties and subordinate private political ambition to the exacting requirements of their profession. As might be expected, they take only a passive interest in the movement for expanded political rights. On the other hand, lower grade officials, far removed from policy-making and the psychic rewards of the higher grades, are likelier to consider their employment merely a "job" and apply different standards in their official and private lives. It is this latter group that has pressed most consistently for the extension of political liberties, chiefly through the civil service staff associations. A salient feature of public employment in Great Britain has been the existence of a numerically strong, organizationally effective, and officially recognized associational movement among civil servants.[9] Although civil service trade unionism in Britain has been hampered by the usual reluctance of the government as employer to see its sovereign position jeopardized by the creation of an effective rival bargaining agent,[10] governments over the past four decades have nevertheless made important concessions (short of acknowledging the right to strike) to civil service organizations, including the acceptance of collective bargaining, the creation of arbitration tribunals, the establishment and increased resort to Whitley Councils, and, except during the life of the Trade Disputes Act, acquiescence in staff association affiliation with outside labor and political groups.[11] Several of the more militant associations of civil servants have given priority to a campaign for the extension of political rights for their members and have used their position in the National Staff Side of the Whitley Council to secure unanimity against the government's position. Fairly widespread staff interest in enlarging the area of political freedom has been encouraged by effective organizational machinery to gain it. Bonds of sympathy between the staff groups and the labor movement at large should not be overlooked, although when Labour came into power governmental action often fell short of the expectations of the organized sections of the civil service.

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[8] See H. E. Dale, *The Higher Civil Service of Great Britain* (Oxford, 1941), pp. 63–109, and Sir Edward Bridges, *Portrait of a Profession: The Civil Service Tradition* (Cambridge, 1950).

[9] Leonard D. White, *Whitley Councils in the British Civil Service* (Chicago, 1933), pp. 241–278; E. N. Gladden, *Civil Service Staff Relationships* (London, 1943), pp. 71–96.

These several forces—the distinctive features of the governmental and party systems, the relation of the merit system to the nation's form of democracy, the peculiar ethic of the civil service, and the rôle of the staff associations—have been major elements in shaping the British response to the conflict over civil service rights.

II. THE TWO BASIC VIEWPOINTS

The arguments put forth over the past fifty years by government personnel officials and by the civil service staff associations (hereafter referred to as the Official and Staff Sides) have been remarkably absolute and consistent—much more so, in fact, than the informal interpretations of the rules during this period. Whether offered in testimony before Royal Commissions and Treasury committees or in the columns of official bulletins and association journals, these claims had acquired the ring of *clichés* by mid-century.[12] In theory

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[10] Excellent discussions of the concept of government as employer are contained in Morton R. Godine, *The Labor Problem in the Public Service* (Cambridge, Mass., 1951), pp. 21–61; Sterling Spero, *Government as Employer* (New York, 1948), pp. 1–15; and Arch Dotson, "The Emerging Doctrine of Privilege in Public Employment," *Public Administration Review*, Vol. 15 (Spring, 1955), pp. 77–88.

[11] Of the 684,000 non-industrial civil servants employed in 1952, 64.4 per cent belonged to staff associations affiliated with the Trades Union Congress, and 23.5 per cent were members of a staff association affiliated with the Labour Party. *Whitley Bulletin*, Vol. 33 (April, 1953), p. 53; *85th Annual Report of the Trades Union Congress* (London, 1953), pp. 53–55.

[12] See, for example, the Hobhouse Committee's *Report from the Select Committee on Post Office Servants* (London, 1907); the MacDonnell Commission's *Minutes of Evidence, Third Report of the Royal Commission on the Civil Service*, Cd. 6740 (London, 1913) and *Minutes of Evidence, Fourth Report of the Royal Commission on the Civil Service*, Cd. 7339 (London, 1914); the Blanesburgh Committee's *Report of the Committee on the Parliamentary etc. Candidature of Civil Servants*, Cmd. 2408 (London, 1925); and the Masterman Committee's *Report of the Committee on the Political Activities of Civil Servants*, Cmd. 7718 (London, 1949).

the two sides approached the question of the permissible range of civil servants' political activities from widely different viewpoints. To the Official Side, it was chiefly a question of insuring public confidence and administrative efficiency; to the Staff Side, it was basically a question of granting or denying civil rights to an important segment of the population. These were the boundaries of the discussions and the polemics. The issue never was one of protecting the civil service from party machines, as in the enactment of the Hatch Acts in the United States.[13]

Official Side Views. Almost every argument brought forth by the officialdom in favor of severely limiting the range of staff political activities has stressed at least one of the following three relationships: the civil servant to the public, the civil servant to the ministerial head of his department, and the civil servant to his fellow employees. Beyond doubt the first of these has been the most important theme in the Official Side position. Time and again it has been argued that the service must have not only the reality but the appearance of political neutrality. No consideration is more crucial than perpetuating public confidence in the administrative process. As put by a recent Treasury committee,[14]

> If Civil Servants . . .were allowed freely to engage in politics, to stand to Parliament, to return to the Service after sitting as M.P.'s, and thus to declare their adherence to one party or the other, the public's belief in their impartiality and the Minister's confidence in their ability to give equally loyal service to whichever was in power would rapidly be destroyed with disastrous results to the Service and to the country.

The fact that in recent years civil servants have come to exercise increasingly vital quasi-legislative and quasi-judicial powers has made the need for maintaining an unsullied public reputation all the more necessary, the argument runs.

Second, the Official Side insists that no minister can have confidence in his civil servants if they are seriously or overtly involved in party politics. Trust and team spirit are necessary in all internal administrative situations, especially in the case of higher level permanent officials who must advise the political heads of departments. An American writer has noted that[15]

> Surely one could not expect a department head to place complete trust in an employee who in effect worked against his entrance into office or who worked for his removal from power. Aside from the personal antagonism which would arise, it would be natural for a

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[13] This point is stressed by Leon D. Epstein, "Political Sterilization of Civil Servants: The United States and Great Britain," *Public Administration Review*, Vol. 10 (Autumn, 1950), pp. 281–290. The definition of the problem in Britain can be seen in the basic question the MacDonnell Commission of 1912–14 took up in its hearings: "Does any conflict arise between the desires and interests of the Civil Servant, regarded as a citizen, and the duty of the Civil Servant, regarded as such; and if such a conflict may or does arise, to what degree should either claim prevail over the other?" *Report of the Royal Commission on the Civil Service*, Cd. 7338 (London, 1914), p. 95.

[14] *Report of the Committee on the Political Activities of Civil Servants*, Cmd. 7718 (London, 1949), p. 13.

[15] David M. Levitan, "The Neutrality of the Public Service," *Public Administration Review*, Vol. 2 (Autumn, 1942), pp. 317–318.

department head to nourish at least a suspicion as to the employee's zeal in carrying out his orders and possibly a fear of sabotage by the employee.

The third relationship that would be jeopardized by the granting of complete political freedom is that of the individual civil servant to his fellow employees. The suspicion that promotions and other rewards depend upon the proper political allegiance or a prescribed amount of partisan activity would constitute a danger to the merit system, the morale of the career service, and the prospects for a greater professionalization of the administrative process. A really substantial commitment to political action, it is thought, would undercut staff morale and raise a multitude of suspicions, legitimate or otherwise. Full political rights might lead down a slippery slope to a renewal of patronage appointments, the spoils system, and all the worst features of the American experience; "... the step from the Civil Service politician to the Politicised Civil Service is but a short one."[16]

While acknowledging that civil servants have behaved discreetly and have not damaged public confidence, the Official Side insists that this has been due to the existence of rules that channel political action in fairly harmless directions. It denies that if the individual civil servant is given complete freedom he will from native discretion and force of character avoid actions that might cast doubt on the neutrality of the service. This character trait, it is said, has been shaped by the application of rules over the years; it is not inherent in every civil servant.

A further argument in defense of restriction is that the civil servant accepts restraint voluntarily when he enters government employment, in effect trading unlimited political rights for perquisites such as security, liberal vacations and sick leave, and pension benefits. Persons unwilling to make such a bargain need not enter state employment and partake of its benefits. Reliance on this reasoning has declined in recent years, however, especially with the advent of nationalization, which has put on the government payroll a new type of employee.

Throughout most of the history of the controversy the officialdom has preferred, in political rights questions, to treat the non-industrial civil service as a single unit. With only minor exceptions, the official view has coincided with Lloyd George's dictum that once a government begins to draw lines of demarcation or allow concessions to individual classes or departments, it embarks on "a very dangerous experiment."[17]

Finally, although it refused to make formal distinctions between lower and higher civil servants until 1949, the Official Side nevertheless has shown a willingness to regard local politics as substantially different from national politics. It has allowed a wide range of local participation while refusing to acknowledge that this provides any guarantee of similar results if equal freedom were granted for participation in national affairs. This viewpoint assumes that local politics still differ markedly from their national counterparts because they are less controlled by national party organizations and can be engaged in by civil servants without arousing public displeasure. A good share of the activities of local authorities, it is contended, are strictly administrative rather than policy-setting and hence are of little interest to national parties.

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[16] *Report of the Committee on the Parliamentary etc. Candidature of Civil Servants*, Cmd. 2408 (London, 1925), p. 28.

[17] Quoted in *The Post*, Vol. 4 (August 27, 1921), p. 182.

Thus the primary elements of the Official Side's position are the belief that the overriding policy consideration must be the retention of the unsmirched reputation of the service for political neutrality and impartiality and the belief that only by imposing restrictions on the full exercise of citizen rights can the government maintain this confidence.

Staff Side Views. In opposition, the Staff Side has asserted that civil servants should be in no way differentiated from the rest of the community as far as political rights are concerned. The civil servant should be permitted to stand for all elective offices without having to resign his job; he should be allowed to take part in all the affairs of the political party of his choice; and he should be able to express himself in word and print on matters of public policy without fear of official penalty. Civil servants are citizens as well as public employees; they deserve something better than second-class citizenship.

The Staff Side argues that the marked increase in the numerical size of the public service makes the problem more urgent. In one form or another, a considerable segment of the population has been drawn into state employment. The extension in the public services associated with the coming of the social service state and the nationalization of industries have placed more millions of citizens within the ambit of the public economy.[18] When the state payroll encompasses a really sizable proportion of the population, the Staff Side asks, is it still advisable or possible to impair the exercise of political rights by government workers?

The Staff Side answers its own rhetorical question by saying that no citizen, regardless of his occupation, should be denied the rights granted to other citizens (the Staff Side told the Masterman Committee of 1948 they were "natural rights"), including a whole range of political activities. Any principle that dries up the pool of political talent available to the community must be seriously questioned and justified only by convincing proof that it promotes higher values. The Staff Side believes no such proof has been offered. It argues that to exclude a large group of citizens from political action is to deny to the public valuable sources of knowledge of governmental problems as well as to withhold from a significant social group an equal voice in the determination of policies affecting its own interests. The civil servant is assumed to be a basically good man, capable of acting wisely and discreetly because he is motivated by a sense of responsibility; thus to impose rules circumscribing his behavior is to insult his character.[19] The experience of civil servants in local government affairs shows that they will act responsibly in politics and do nothing to shatter public confidence in the impartiality of administration. This evidence is proof in itself that the Official Side fears are unfounded. The Chairman of the National Staff side has also asserted that the need for apparent as well as real impartiality is no longer pressing because the public is more sophisticated in such matters than it was in the early period of the modern civil service.[20] Administrative officials have recognized this and have winked at a number of violations of the letter of the rules when no public displeasure was indicated.

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[18] During the period 1890–1950, the total working population of Great Britain rose by 57 per cent, but government employment, apart from nationalized industries, increased by nearly 500 per cent. In 1891 British public servants made up less than four per cent of the labor force; by 1950 the figure had risen to 14 per cent, excluding nationalized industries and public utilities, and 24 per cent if these groups are counted. Moses Abramovitz and Vera Eliasberg, "The Trend of Public Employment in Great Britain and the United States," *American Economic Review*, Vol. 43 (May, 1953), p. 205.

The official view that government employees have no ground for complaint since they accept political sterilization as a condition of employment, the Staff Side meets by arguing that a condition of employment is fair or unfair irrespective of whether a person comes under it voluntarily or involuntarily. Individuals are not always free agents and may be forced by economic necessity to agree to unfair conditions. The prospective civil servant ought not to be required to bargain away his civil rights for his job.

The Staff Side is in agreement, at least in its premises, with the Official Side on the need for treating the civil service as an entity. Its position, however, is that no class or grade of the service ought to be denied access to full political freedom. It concedes readily that because of their intimate relationship with the political heads of departments, members of the top Administrative class ought not to engage in politics. Yet it argues that no rules are needed to enforce this ban: the character of the members of group and their desire to avoid embarrassment leads them to avoid politics without being told what not to do.

In addition to objecting to distinctions between service ranks, the Staff Side opposes concessions to those interested in local politics while prohibiting participation in national politics. It sees the increased national control of local government and the penetration of national political parties into almost all local bodies as signs that politics in Britain constitutes a single fabric. If political freedom can be allowed on the local level, it asserts, there is no good reason why it should not be permitted in national affairs as well.

In contrast to the views put forward by the Official Side, then, the principal contention of the Staff Side has been against discriminatory treatment of the public service. Although they have clung to these views tenaciously in their formal pronouncements, the two sides have shown a willingness to place conciliatory interpretations on them in order to adjust to the movement of events. And with only minor exceptions, these adjustments have widened the scope of permissible political activity.

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[19] The Staff Side proposed to the Masterman Committee a single convention that would replace all previous rules. It read: "Civil servants are free to engage in party political activity and it is left to their discretion and good sense to do so with due regard to their rank, the functions of their Department and their duties in it, on the understanding that an officer who by grossly negligent or wilful action or comment on a matter of party politics creates an intolerable position for his Department will be liable to disciplinary action."

[20] Transcript of the Third Meeting of the Masterman Committee (unpublished manuscript, files of the Union of Post-Office Workers).

III. THE EVOLUTION OF POLICY

The movement of the British civil service from an era of stringent limitations on political activity to one of comparative freedom was gradual and piecemeal. Little conscious experimentation was tried, but lapses from the strict rules were allowed and observed, and important precedents began to take hold. Attempts to lay down systematic rules of conduct took the form either of general and vague admonitions (civil servants were to display "a certain reserve") or the codification of practices that had been viewed with a Nelsonian eye by departmental officials. Often the decisions of the Treasury or committees of inquiry merely gave official sanction to informal practices of long standing—a common method of institutional growth in Great Britain as elsewhere.

Restrictions on the rights of state employees continued long after the extension of political freedom to the mass of British citizens and the adoption of the merit system with its elimination of place-selling, sinecure appointments, and recruitment through patronage.[21] The Reform Acts of 1832 and 1867 did not repeal the eighteenth century statutes that had disenfranchised employees of two of the largest departments of state, the Post Office and the Customs Office; nor did they lift the sweeping ban on other political activities by civil servants.[22] That came only after the clerical staffs of the Post Office, the Board of Inland Revenue, and the Customs Office built a bonfire under a group of Liberal politicians. Full franchise privileges were granted in 1868.[23] Six years later, the power to decide matters concerning other kinds of political activity was transferred from Parliament to the more flexible arena of administrative discretion.[24] Parliament did not abdicate its control completely, however, for over the years it has continued to question and debate Orders in Council and Treasury Minutes bearing on the political rights of civil servants.

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[21] The evolution of the service from patronage to merit principles is described in Emmeline W. Cohen, *The Growth of the British Civil Service* (London, 1941), pp. 20–123; Dorman B. Eaton, *Civil Service in Great Britain: A History of Abuses and Reform and Their Bearing on American Politics* (New York, 1880), pp. 102–233; H. R. G. Greaves, *The Civil Service in the Changing State* (London, 1947), pp. 11–44; A. L. Lowell, *The Government of England* (New York, 1908), Vol. I, pp. 145–172; Robert Moses, *The Civil Service of Great Britain* (New York, 1914), pp. 19–88; H. M. Stout, *Public Service in Great Britain* (Chapel Hill, 1938), pp. 23–43; and K. C. Wheare, *The Civil Service in the Constitution* (London, 1954).

[22] Caught in a squeeze between political factions, the postal and revenue staffs had requested their own disfranchisement in 1782. 22 Geo. III, c. 4. An act of 1710 forbade them to "intermeddle in elections," which meant "by Word, Message, or Writing, or in any other Manner whatsoever, endeavour to persuade any Elector to give, or dissuade any Elector from giving his vote for the Choice of any Person . . . to serve in Parliament." 9 Anne, c. 10, sec. 44.

[23] 31 and 32 Victoria, c. 73. A detailed description of this movement can be found in H. G. Swift, *A History of Postal Agitation* (London, 1900), pp. 50–54.

[24] 37 and 38 Victoria, c. 22.

During the several decades following the introduction of the merit principles of the Northcote-Trevelyan Report in 1870, and in a somewhat unsystematic fashion, a series of rules and understandings on permissible types of political activity grew up, covering candidature for public office and various degrees of involvement in the campaigns of individuals and parties. Standing for Parliament without prior resignation from the service was strictly enjoined.[25] Candidature for membership on local government organs was permitted if the civil servant's department gave its permission, with two exceptions: (1) from 1888 to 1909 no civil servant could be a candidate for election to a County Council and (2) additional restrictions were put on civil servants whose departments (such as Health and Education) were in continuous and delicate contact with local government authorities.[26] In other partisan activities, government employees were admonished to "maintain a certain reserve" and "not put themselves forward prominently on one side or another." A number of fairly passive actions were open to the civil servant in this period: he could vote, sign an electoral appeal, join a political party, attend a party meeting (provided he took no active part in it), and in general be "political" in a quiet and individual manner. Since national political activity was regarded as more partisan and controversial than local government affairs, he was to avoid most forms of it. Office-holding in party organizations, committee work, canvassing, speech-making, political writing, appearance on platforms with political figures, and numerous other means of identification with political causes were proscribed, at the threat of punishment ranging from reprimand to dismissal from the service. As noteworthy as the number and variety of these restrictions was the fact that prior to 1945 (with only a few exceptions) they purported to apply with equal force to all civil servants, industrial and non-industrial alike, regardless of their class, the nature of their duties, or the degree of their public contacts. Differentiation between positions came into play only when the individual departments were called upon to grant permission for participation in local affairs or when a violation of a generally-worded rule was alleged to have occurred.[27]

Aside from the abolition of the ban on County Council candidature in 1909, very little change in the formal rules occurred until the 1920's. Staff arguments favoring relaxations were aired before Royal Commissions and various committees, but they met a solid wall of government opposition and made no appreciable headway. The marked increase in public employment and the growing strength of the civil service staff associations after World War I seemed to offer encouragement. Hopes that the advent of a Labour Government would signal immediate and substantial movement in the direction of liberality proved to be unfounded, however.[28] The Post Office in 1922 gave recognition to the familiar practice of canvassing,[29] but Chancellor of the Exchequer Snowden reaffirmed the traditional rules and a committee appointed by the first MacDonald Government to investigate Parliamentary candidature came up with little more than a defense of the status quo.[30] The Staff Side continued to frame its pleas in absolute terms, based on the rights of ordinary citizens. But tactical considerations favored settling for half a loaf, *i.e.*, agreeing to the establishment of different standards for various grades of civil servants. The passage of the Trade Disputes and Trades Union Act in 1927 drew the attention of many staff associations away from the campaign for individual rights and to the campaign for the restoration of the political levy and affiliation privileges of government trade unions. The impact of the depression, the defeat of Labour at the polls, and the publicity given to several supposed breaches of existing civil rights combined to put the organized wing of the service in a defensive mood. A concerted drive for the relaxation of restrictions was not renewed until after the return of Labour to power in 1945 and the subsequent repeal of the Trade Disputes Act.[31]

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[25] Treasury Minute of November 12, 1884, *Command Papers*, 1884–85, Vol. 45, p. 171. This minute was consolidated with several others into clause 16 of the Order in Council of January 10, 1910.

[26] Treasury Minute of December 18, 1888; 12 *H.C. Deb.* (October 28, 1909), cols. 1177–1178.

[27] The areas of freedom and restriction are defined on two levels: on the all-service level, where prohibitions both general and specific are laid down (usually by the Cabinet on the advice of the Treasury), and on the departmental level, where content is given in particular cases to the general policies determined at the all-service level.

This brief survey reveals, at least with respect to formal rules, a consistent preference by governments for the viewpoint of the Official Side. Staff claims to full political rights before World War II drew few concessions from those who were anxious to present to the public an image of the civil service free from the taint of partisan identification. Yet within a few years, a new principle was applied that opened up large sections of the service to political activity; and, equally important, this development elicited little protest and found wide public acceptance. It remains to be seen how the government lately has been induced to make such a major revision in the traditional formula. Part of the explanation is to be found in the experience of past governments with the application of the rules that stood for many years; part of it is more political and can be traced to the pressures of civil service organizations within the wider Labour movement.

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[28] The Party's manifesto on reconstruction, *Labour and the New Social Order* (London, 1918), offered signs that the Party would press for the relief of civil servants' political rights. So, too, did its *Report of the Advisory Committee on the Machinery of Government on the Civil and Political Status of Civil Servants* (n.p., 1919).

[29] *The Post*, Vol. 6 (November 18, 1922), p. 456.

[30] 169 *H.C. Deb.* (February 14, 1924), cols. 1018–1019; *Report of the Committee on the Parliamentary etc. Candidature of Civil Servants*, Cmd. 2408 (London 1925), pp. 24–33. The Government did accept the Committee's recommendation that industrial workers in defense departments be released from the major prohibitons.

[31] Alleged violations of civil servants' liberties were investigated and publicized by the National Council for Civil Liberties. See Ronald Kidd, *British Liberty in Danger* (London, 1940); National Council for Civil Liberties, *Civil Liberties Offended* (London, n.d.); and J. Donald Kingsley, *op. cit.*, pp. 222–227.

IV. LENIENCY IN ADMINISTRATION

A major clue to the relatively smooth transition from tight to relaxed reins can be found in the administration of the political activity rules. The determination of permitted and forbidden actions had been left solely to the executive branch and in practice largely to the Establishments divisions of the individual departments, operating under the general supervision of the Treasury. The nature and extent of civil servants' involvement in politics were thus quite dependent on the way officials in the line departments interpreted their discretionary powers. Although the administration of restrictions was flexible and occasionally arbitrary, a pattern has emerged in most departments that is recognizable and relevant to the basic problem of balancing political rights and administrative neutrality.[32]

Most of the data that form the basis for describing the pattern were obtained from departmental archives and from interviews with Establishments officers of eight of the principal departments of British government.[33] Mention must be made of three procedural difficulties encountered in the course of the research. First, some of the information, particularly that concerning the number of staff members who were known to have taken part in politics, could not be checked against written records. Second, due to occasionally inadequate files and casual attitudes concerning violations of the restrictions, the record cannot be assumed to be absolutely complete.[34] Third, because of the absence of standardized departmental files, it was impossible to get statistical data covering comparable periods of time in all eight departments. Nevertheless, despite the loose kind of sampling that these obstacles necessitated, enough of the over-all picture has been obtained to provide a general view of the administration of the restrictions.

Committees of inquiry have been anxious to learn the experience of the civil service with staff political participation and department heads have been urged from time to time to assess the record of their staffs in this matter as a basis for recommending changes in the rules. Thus before the Masterman Committee took evidence in 1948, the Treasury and the major departments took stock of their experiences. The information gathered by the Post Office provides a picture of the general state of political activity within the largest government department. A questionnaire was sent out to the chiefs of the five specialized departments, the heads of the two London departments, and directors of the eight postal regions. The principal questions and the replies to them can be summarized as follows:

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[32] A detailed discussion of the administration of political restrictions is contained in J. B. Christoph, "The Political Rights of British Civil Servants" (dissertation, University of Minnesota, 1956), pp. 269–366.

[33] The departmental sample was chosen on the basis of several criteria: size, statutory function, degree of contact with the public, and relationship to local government authorities. The departments were the Post Office, the Board of Inland Revenue, the Ministry of Pensions and National Insurance, the Ministry of Labour and National Service, the Ministry of Housing and Local Government, the Air Ministry, the Ministry of Supply, and the Department of Scientific and Industrial Research.

[34] Several Establishments officers said that they had no idea of the true extent of participation or the incidence of violations among their staff—a valuable commentary in itself. One regional director of the Post Office wrote: "The crux of the matter is that we do not possess . . . such detailed knowledge of the private lives of our staffs as would enable us to list their political activities with any degree of accuracy; *nor do we wish to possess it.*" (Italics mine.)

1. "Has embarrassment been caused by the breach of the rule about maintaining a reserve in political matters?" Nine areas reported no embarrassment whatsoever, five areas experienced it "only in isolated cases." In only one region—Northern Ireland—had "some deterioration of staff relations" resulted from political activity, and it was due to the delicacy of the religious situation in Ulster rather than the normal question of public confidence.

2. "Has any difficulty arisen due to canvassing?" None was reported in any of the areas.

3. "Has service on local governing bodies conflicted with duties to the Department?" Only in Scotland and the Home Counties Region were single cases of difficulty reported. The other areas had no problems, although several directors mentioned the lengths to which officials had gone to arrange special hours and lighten the load of staff serving on local bodies.

4. "Have difficulties arisen because officers have served on political committees?" (This question presupposed that the rule prohibiting partisan committee membership had been broken with impunity.) Fourteen of the 15 area chiefs signified that no difficulties were encountered on this score; eight of them stated specifically that although the rule had been violated many times, their offices had taken no steps against the violators because embarrassment had not ensued.

5. "Is it true that a Post Office servant can belong to a political committee in a big town without drawing attention to himself, but not in a small place?" Twelve regional and branch directors signified that they believed the statement to be true. Only one questioned it, insisting that while news travels quickly in a small town, the greater press coverage in large cities achieves the same result.

6. "Is the rule prohibiting service on a political committee inconsistent with the rule which allows service on a Local Government Body?" All 15 officials replied that they thought it was, although three of them added that because of the prevalence of partisan committee membership the inconsistency was more apparent than real.

7. "Would it matter if the rule about serving on political committees were relaxed?" Of the 13 directors who replied, 9 felt that no great harm would come, whereas three believed that relaxation would bring more complications than it was worth, and one merely reported that the staff he had polled were equally divided on the merits of change. Appended to the answers of those who favored relaxation were such comments as "It is impossible to enforce the rule nowadays" and "Some relaxation seems inevitable anyway."

Figures revealed that out of a total staff of 348,000 in April, 1948, approximately 85 persons, or .025 per cent, currently were known to be holding political office in local government bodies. From 1945 to 1948, some 444 postal employees had held local office.[35] Slightly over 42 per cent of the average yearly participation occurred among members of the London and headquarters staffs. In terms of rank, all but seven per cent of the participants were below the clerical grade—postmen, sub-postmasters, manipulatives, and industrials.

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[35] There had been one Lord Mayor (Liverpool), 20 mayors or provosts, 172 members of Urban District Councils or Rural District Councils, and 251 members of municipal, town, or parish councils.

Postwar experience in the arena most encouraged—local government—may be described as extremely slight and confined to the lower echelons of the service. On the basis of these data, the Post Office representatives before the Masterman Committee recommended that formal restrictions be lifted from the bulk of civil servants, if only to bring the rules into line with acknowledged practice.

The sample of seven other departments revealed that the Post Office experience was by no means atypical. A number of conclusions can be drawn from this evidence.

In the first place, in recent years the amount of political activity undertaken by civil servants, of whatever grade, has been small in proportion to the total service staff. As far as Establishment officials were aware, all forms of political participation account for the off-duty behavior of less than one per cent of the staff. Part of this can be explained by the existence of the prohibitions, but only part. The experience of the departments reveals that most civil servants do not care to participate in partisan politics.

Second, none of the personnel officers consulted believed that members of their staffs who entered politics had caused embarrassment to their profession or otherwise cast doubt on the impartiality of the administrative process. The absence of serious complaint, either from individuals or organized groups, is witness to a high level of satisfaction and impressive proof that civil servants in politics can be relied on to be responsible and discreet.

Third, in those areas where departmental permission has been required, or where departmental cooperation in granting leave might have been decisive, officials usually have displayed an attitude which, if not always enthusiastic, nevertheless has been far from repressive and illiberal. No organized attempt has been made to keep a close check on staff political activity. Except in situations that are judged as likely to elicit unfavorable public or party reaction, departmental attitudes have been flexible. The problem of political rights versus administrative neutrality, when its existence is recognized at all, is regarded as a minor soluble issue between reasonable people.

Lastly, an examination of official decisions on granting or withholding permission to undertake political actions reveals the criteria generally relied on. The overriding consideration in every case is the need for retaining public confidence, and almost all of the specific criteria can be subsumed under this heading. These include the nature and degree of the person's contact with the public, the type of functions carried on by his department, the extent of its dealings with local government authorities, the officer's position in the hierarchy, his relationship to the Minister, the kind of political activity he wishes to engage in, its prominence in the public eye, how anonymous he can remain, and his nearness to the retirement age (some departments felt that politics is a hobby that persons on the verge of retirement can be encouraged to indulge in without harm to their official duties). The evidence shows that the departments with the closest and most frequent contact with the public on matters that affect its material welfare (such as Inland Revenue, Pensions, and Labour) have maintained the most stringent restrictions on political participation and are the most sensitive to public reaction.

Although more detailed analyses might be presented, enough has been said to indicate the atmosphere in which political restrictions, often drawn up to assuage Parliamentary and public opinion, are translated from vague and often pious generalities into specific decisions. The picture reveals widespread flexibility in official attitudes, staff discretion in political behavior, and a high degree of mutual satisfaction with the results of the formula as applied by on-the-spot officials. Yet decentralization is bound to permit variations in treatment from decision to decision and from ministry to ministry, and over the years there developed the view (on the part of restrictionists and liberalizers alike) that a more uniform and detailed all-service policy ought to be laid down. This view was in the ascendant immediately after World War II, when the transition from war to peace and from one government to another signaled the need for a re-examination of time-honored personnel policies. Nothing was more certain at the time than that whatever new policy might be evolved on the basis of such a reappraisal, it would be strongly influenced by the behavior of civil servants under the previously operative regulations.

V. THE FORMULATION OF THE CURRENT POLICY

The belief of the informed public that the historic rules on civil service political activity needed revision,[36] the announcement that the government would introduce a policy enabling the majority of workers in the nationalized industries to be as free as their counterparts in private industries,[37] and the pledge to the staff association by the Labour Party that it would reopen the issue, led the Attlee Government in 1948 to appoint a Treasury Committee to investigate and recommend a course of action.[38]

The Masterman Committee, as it was known, listened to the usual arguments from the Official and Staff Sides and gathered as many facts as it could on the effects of civil servants' political participation. Its report, which many observers saw as laying down a new formula, actually had the effect of suggesting that the government and the public give their blessing to practices that had prevailed informally for years.[39] The Committee proposed that the principle of differential treatment, which previously had been applied only by individual departments in specific cases, now be incorporated into all-service rules. The more explicit and uniform policy it envisaged would recognize that a civil servant's position in the administrative hierarchy conditions the extent to which public confidence might be jeopardized by his undertaking various political roles. Groups of state employees far removed from policy formulation or sensitive contact with the public, it was urged, can be permitted a fairly wide range of political actions without endangering the principle of administrative impartiality.[40]

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[36] Comment in several of the influential journals of opinion had pointed up numerous discrepancies in the rules and their administration. See *The Economist*, Vol. 62 (April 12, 1947), p. 531, and the *Manchester Guardian*, January 7, 1948.

[37] 436 *H.C. Deb.* (May 1, 1947), cols. 2160–2161.

[38] The Labour Party manifesto for the 1945 General Election, *Let Us Face the Future* (London, 1944), had promised repeal of the Trade Disputes Act and expanded political freedom for individual government employees.

[39] *Report of the Committee on the Political Activities of Civil Servants*, Cmd. 7718 (London, 1949).

Acting on this premise, the Masterman Committee recommended that the government draw a single line across the vertical ranking of the civil service so as to separate officials into a "free" group and a "restricted" group. Members of the first would be permitted to undertake all types of candidatures and indulge in all varieties of partisan activity short of "blatant violation of the public trust." Members of the second would be prohibited from engaging in any but local government activities, and then only with departmental permission. As originally drawn, the line would have divided the service in such a way as to put industrial, minor, and manipulative employees below the line and the rest of the staff, from typists to permanent secretaries, above it.[41]

Strong protest from many quarters greeted the announcement that the Attlee Government had accepted the principles of the Masterman Report.[42] The powerful National Staff Side in particular cried out against an arrangement which it claimed would worsen appreciably the status of many employees who had benefited from the loose procedures of the past, however irritating the general rules had been. A combination of pressures forced the Labour Government to agree to introduce only those parts of the Report that freed the group "below the line" and to turn the remainder of the question over to a Whitley Council Committee for further negotiations, "within the general principles of the Masterman Report."[43] There was to be no tampering with the idea that a solution must be found somewhere between the extremes of complete restriction and complete freedom; the needed compromise must involve differential treatment for civil servants primarily on the basis of their grade or class. After four years of negotiations, the committee produced a White Paper and its provisions were accepted immediately by the Churchill Government.[44] More political rights than ever before had been officially conceded now were in the possession of government employees.

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[40] This position was also taken by Mr. Justice Douglas of the United States Supreme Court in his dissent to the ruling upholding the Hatch Acts. 330 U.S. 120–126 (1947).

[41] The "free" group was to number approximately 666,000, the restricted group 470,000. Masterman *Report*, p. 32.

[42] See the debates in Parliament, 467 *H.C. Deb.* (July 30, 1949), cols. 3009–3022. Staff association reaction can be found in *Whitley Bulletin*, Vol. 29 (August, 1949), p. 125; *The Post*, Vol. 54 (July 16, 1949), pp. 35–36; *State Service*, Vol. 29 (August, 1949), p. 182; *Red Tape*, Vol. 39 (November, 1949), p. 55; and a letter from Douglas Houghton of the Inland Revenue Staff Federation to the London *Times*, September 20, 1949. The Trades Union Congress voted overwhelmingly to censure the Government for accepting the restrictive features of the Report: *81st Annual Report of the Trades Union Congress* (London, 1949), pp. 505–508. The National Council for Civil Liberties issued a pamphlet entitled "Civil Servants and Politics: The Masterman Report Exposed" (London, 1950). Further critical commentary is contained in H. J. Laski, *Thoughts on the Constitution* (Manchester, 1950), pp. 188–196, and W. H. Morris-Jones, "The Political Rights of Civil Servants," *Political Quarterly*, Vol. 20 (October-December, 1949), pp. 364–375.

[43] 469 *H.C. Deb.* (November 15, 1949), cols. 189–190.

[44] *The Political Activities of Civil Servants*, Cmd. 8783 (London, 1953).

The current government's attitude toward political activity was given institutional form by the adoption of the principle of differential treatment as laid down by these two committees. The solution propounded by the Whitley Committee required the drawing of two lines and the consequent establishment of three groups for political participation purposes. The first of these was the old "free" section recommended by the original Masterman Committee, which remained substantially unchanged in composition and prerogatives; the second was an intermediate group, covering roughly the middle ranges of the service from typists through Higher Clerical Officers, which was allowed to undertake (subject to an innocuous code of discretion) all forms of political activities except Parliamentary candidature;[45] the third or restricted group was to be composed of the higher officials of the service, who are closest to the formulation of political and administrative policy and most likely to be identified as civil servants by the public. Its members were to be denied all political rights except voting, passive party membership, and local government activity, the latter to be engaged in only with departmental permission and after the individual agreed to a code of discretion. The effect of the new classification, now in effect, has been to remove all restrictions on industrial civil servants and to divide the non-industrial service into three different categories: 62 per cent into the "free" area, 22 per cent into the intermediate group, and 16 per cent into the restricted class.[46] Experience with the new arrangement and continued Staff Side pressure may force revisions in this distribution, but it is highly unlikely that the principle of differential treatment will be abandoned before it has had a chance to function and be observed in operation over a period of years.

VI. SUMMARY AND CONCLUSIONS

British experience with the question of neutralizing the civil service reveals that even in a country in which public personnel matters have not been an object of partisan manipulation, no simple and entirely acceptable resolution of the basic positions has been worked out. Short of satisfying every party to the issue, however, the present policy and the process by which it was arrived at deserve to be noted by students and practitioners of public administration in other countries as well as in Britain. This is not because the British pattern commends itself automatically as the sole or universally applicable norm in staff relationships. Rather, it is valuable because it points up the range of alternative answers to the problem of neutrality and indicates how they are conditioned by political and governmental institutions. The main features of the British approach can be summarized briefly.

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[45] Within the intermediate group two subgroups were to be established: one having standing permission to undertake local political activities, the other—made up chiefly of members of departments having policy contacts with local authorities—remaining under the obligation to seek departmental permission before doing so.

[46] A provisional breakdown of individual departments into the three categories can be found in 526 *H.C. Deb.* (April 8, 1954), cols. 513–514.

First, the assumption of full political responsibility by the ministerial head of each department has relieved civil servants of one of the kinds of political activities they relish least—having to defend current policies of their department before members of the legislature or the general public. By insulating its career servants from this involuntary identification with partisan policies, the British have enhanced the possibility that a tradition of impartiality may be cultivated and have removed one threat to intra-service morale. Freedom from this type of political engagement has permitted staff attention to be shifted to the question of the off-duty, private political life of civil servants. The customs of Parliamentary democracy and the fact of Cabinet control of both the legislative and administrative processes have narrowed the issues bound up in the concept of neutrality to a much greater extent than has been possible in the presidential or weak-executive parliamentary systems.

Second, the extension of a greater corpus of political rights to British civil servants came only as part of a lengthy evolution, marked by cautious experimentation and sustained pressure from the politically-conscious sector of organized state employees. Only after the merit system had been firmly implanted were libertarian protests considered seriously; and only with the proviso that they must not be abused (because of the resultant threat to public confidence) were concessions granted piecemeal. Eight decades after the establishment of the modern civil service it was finally agreed that the public image of the service was virtuous enough, the extent of actual interest in politics small enough, and the influence of a kind of professional ethic widespread enough, so as to allow the government to embark publicly on its "triple standard" policy without fear that it would lead to a resurgence of a "politicised" civil service.

Third, the basic question has generally been viewed as one of reconciling the consequences of two ideas: (1) that the paramount need is to preserve hard-won public confidence in the integrity and political impartiality of the civil service, and (2) that the conditions of state employment must be considered primarily from the standpoint of the civil rights and morale of government employees. The process of reconciliation has been slow, and it is still going on. It has not been complicated, however, by the insertion of some additional factors—for example, a spoils tradition that subjects government officials to strong party pressures, or political situations in which factions strike at each other by tampering with civil service personnel. By confining the controversy to the questions of public and ministerial confidence and civil rights, the Official and Staff Sides have been able to find sufficient areas of agreement to permit a gradual, but nevertheless liberal, extension of political rights to the majority of classes and grades.

Fourth, the current resolution of this conflict of claims involves discriminatory treatment based on a distinction, in principle and fact, between policy-making and policy-executing positions. The civil servant who advises the political head of his department, or is in policy contact with local government authorities, or exercises enough discretionary power to determine the outcome of a citizen's claim, is deemed to be in too sensitive a place to be permitted the full range of political rights. It is agreed that if the stigma of political preference was attached to the performance of such policy roles, the result could well be an alienation of the politicians and the withdrawal of the confidence of the general public. Hence the prevailing view is libertarian for most of the service, but it retains some of the restrictionism of the past. The more purely non-political and routine a position can be shown to be, the more likely that its holder will be permitted to engage in almost all forms of off-duty politics.

Lastly, there are plain indications that the quantity of political action undertaken by civil servants has been and will continue to be slight and its quality discreet. The reluctance of civil servants to become deeply engaged in politics may be explained partially by the previous existence of rules, general admonitions, and the "tone" of their superiors when political questions are raised. But it may also be explained by the observed development within government employment, as it becomes increasingly more professionalized, of self-regulating bureaucratic values. The growth of this ethic may not be wholly welcome on all counts. It may, as has been argued, encourage the kind of apartness that makes responsiveness to political decisions and trends more difficult to insure. Nevertheless, it is the kind of subjective control that is apt to be beneficial to staff morale. In the long run it may also be more successful, as the British experience would seem to indicate, in removing the threat of the subversion of administrative values by hyperactive political identification than the application of rigid edicts from an outside authority.

THE COMMUNIST PARTY OF YUGOSLAVIA*

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Of all the changes that have occurred in Yugoslavia since 1948, one of the most interesting is the development of a new theory and role for the Communist Party. Now officially called the League of Communists,[1] the Yugoslav Party illustrates both the well-known dominant role of Communist parties in states where they have come to power and at the same time the peculiar nature of Yugoslav Communism that has set it apart from the Soviet variety.

Organized on the Soviet pattern and headed by men steeped in the Soviet tradition, the Yugoslav Communists even in 1945 occupied a position like that of their comrades in the USSR, where, as Stalin said, "not a single important political or organizational question is decided without directions from the Party. . . ."[2] Even after the Cominform dispute had produced a new ideological pattern, a more liberal approach to Communism, political and economic decentralization and profuse professions of democracy,[3] few could doubt that, as Stalin said about the situation in the Soviet Union, "the Party governs the country."[4]

Yet at the same time, both the ideological and operational position of the Party also underwent considerable changes after 1948. If the changes did not portend a fundamental weakening of the Party's dictatorship, still they created serious difficulties for the maintenance of that dictatorship and raised important questions as to its future course.

I. IMPACT OF THE RESOLUTION

There can be little doubt that the Cominform Resolution expelling Tito's Party had an enormous impact on the Yugoslav Communists. The crisis was not only political but psychological. Various Communist leaders have described to the writer bodily ailments that resulted from their perturbation at the time, and Tito's gall bladder trouble was attributed to a case of "nerves" induced by the Cominform action.[5] Stunned themselves and doubtful of the reaction of the rank and file, the Yugoslav Party heads at first protested their loyalty for the USSR. When a new line cautiously began to be formulated a year later—by Pijade, Djilas, Kardelj and others—it was largely negative, emphasizing criticism of Soviet theories and methods. To the extent that dogmatism was lessened in the Yugoslav Communist attitude, it was replaced by uncertainty. When positive ideas did appear, they centered around the idea of decentralization as a means toward a more democratic type of socialism.[6]

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* This article is based on a chapter of a forthcoming book. Much of the material was gathered while the writer was doing work in Yugoslavia during 1954 as a member of the American Universities Field Staff, which has permitted him to quote from AUFS reports prepared at that time. The writer is also indebted to the American Philosophical Society, whose grant assisted him in his researches.

[1] The name, changed in 1952, is *Savez Komunista Jugoslavije* in Serbo-Croat. The organization is still often referred to as "party," however, and herein the terms Party and League are used interchangeably.

[2] J. V. Stalin, *Voprosy Leninizma* (*Questions of Leninism*), Gosizdat (Moscow, 1934), p. 34.

[3] For a discussion of these, see Fred Warner Neal, "The Reforms in Yugoslavia," *The American and Slavic and East European Review*, Vol. 13, pp. 227–244 (April, 1954).

[4] Stalin, *op. cit.*, p. 38.

[5] Vladimir Dedijer, *Tito* (New York, 1952), p. 365.

That is to say, if the concept of the infallibility of Marxism-Leninism did not at first suffer, doubts were at least created as to what Marxism-Leninism was. The basic Soviet-type doctrine, in which members of the Communist Party were supposed to have unswerving faith and in the name of which they devoted their disciplined efforts to help the Party control all phases of Yugoslav life, was eliminated. What was put in its place was less a theory than a method of action calling for almost a reverse emphasis on the part of the Communists. It is not unnatural that there resulted, in Tito's words, "a certain spiritual demoralization."[7]

One thing was certain: the Party needed support for its new position, not only to strengthen its hand in the quarrel with the Soviet Union but also because decentralization inevitably meant reliance on a broader sector of the population than formerly. In the nature of things, this meant greater reliance on the People's Front, a mass organization which in 1948 already numbered about 7,000,000. While there was no doubt about the Party's domination of the People's Front, the privileged position of the Communists was an irritant, and the tendency of many of them was, Balkan style, to flaunt their privileges in the face of the populace.

The upshot was a decision by the Central Committee in the fall of 1950 to eliminate certain material privileges, particularly as regards special rations and housing rights, for Party members.[8] The correspondent of the *New York Times*, often critical of the Tito regime, was moved to comment: "For the first time, a Communist state has abolished the line of demarcation separating the rulers from the people and has adopted as a fundamental principle a modicum of equalitarianism."[9]

The adoption of "a modicum of equalitarianism" as a principle was not specifically connected with the reforms in the government and the economy or with the emphasis on democracy that was appearing more and more in Yugoslav ideological tracts. There was, in fact, a noticeable official silence pertaining to the role of the Party in Yugoslavia's new Communist system. But the contrast between the new theories of society and the monopolistic power position of a highly centralized Communist Party was already apparent. As a part of their new campaign against bureaucracy, the Yugoslav ideologues included in their criticisms of the Soviet system the role of the Communist Party as well as the government. In addition, the program of decentralization was being bucked by various Communists, either because they misunderstood the new line or were reluctant to share authority. In the spring of 1952, the Fourth Plenum of the Central Committee at last came to grips with the problem. The Central Committee's directives of June, 1952, not only began to apply the principle of decentralization to Party organization but also decreed a limitation on the Party's role in local government.[10]

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[6] See Pijade's statement on this in Neal, "Certain Aspects of the New Reforms in Yugoslavia," *University of Colorado Studies*, Series in Political Science, No. 1, p. 53 (June, 1952).

[7] Tito's Report to Sixth Party Congress, *Borba*, November 4, 1952.

[8] *Yugoslav Newsletter*, October 23, 1950.

[9] M. S. Handler in the *New York Times*, October 16, 1950, p. 1.

II. THE JUNE DIRECTIVES

According to the June directives, secretaries of local Party organizations were to give up their positions as heads of local government organizations, *i.e.*, People's Committees. It was declared that for the same persons to hold both jobs was incompatible with the new autonomy being extended to local governments, interfered with the development of the Party's ideological work, and acted to prevent criticism of local government activity. Since almost all local government heads were also heads of local Party committees, the People's Committees were little more than extensions of the Party organization. Since this situation in the Soviet Union typified the "bureaucratic caste system" which the new Yugoslavia now was opposed to, it had to be changed. From the same point of view, the June directives instructed local party officials to limit their interference in economic operations. Although workers' councils had been freed from much government bureaucracy, Party interference was sometimes having the same deleterious effects and had to stop.

The June directives also extended considerable autonomy to local party units, with an aim of expanding intra-Party democracy "in forms of ideological and educational work" and eliminating bureaucracy in the Party.

"Up to the Fourth Plenum of the Central Committee of the Communist Party of Yugoslavia," admitted Tito, "the entire ideological-educational work was run predominantly from the center. The subject matter and even the forms of work were determined and initiated by the Agitation-Propaganda Department of the Central Committee."[11]

Under the new directives, although propaganda activities were, of course, to follow the general program of the party, in the absence of special directives local Party units were to decide themselves what to do and how to do it. The responsibility and the privileges of lower party organizations were emphasized.

These were significant changes. Their effect was mixed, and, as far as the rank and file of the Party was concerned, the result was considerable confussion. As Tito said at the Sixth Party Congress a few months later: "Many of the Party organizations have been left to themselves, without being extended any help in the transitions and preparations for their new responsibilities, and as a result of this the work of raising the ideological and educational level of the membership has been neglected or is lagging. . . . Various conceptions . . . alien to the Party began to penetrate in the ranks of the Party membership . . . various elements . . . began, it appears, to conceive our expansion of democracy wrongly and to raise their heads. Various theories began appearing on the freedom of this or that."[12]

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[10] The directives are given in *Komunist*, June, 1952, and are further discussed in the reports of Tito and Ranković to the Sixth Party Congress. See *Borba*, November 4, 1952, and *Politika*, November 9, 1952.

[11] Tito's Report to Sixth Party Congress, *op. cit.*

And Ranković added that some Communists went too far in interpreting party democracy while others did not go far enough. In certain instances, Party members even thought it was not necessary to attend Party meetings or pay dues. A contributing factor to the difficulties, Ranković thought was the "low ideological level of a considerable part of the Party membership."[13]

At the same time, both Tito and Ranković insisted that, in the words of the latter, the new measures "increased the political activities of the Party organization among the masses . . . [and] introduced a new spirit and style of working into the Party organization."[14]

III. A NEW THEORY OF THE PARTY

In many ways, 1952 was the high point of enthusiasm for democracy among the Yugoslav Communist leaders. Their relations with the West were flourishing, and opposition to the Soviet Union was at a peak. American economic assistance had brought a halt to the deterioration in living standards. The reforms in the economy and government had produced an unquestionably favorable response from the populace, and plans for a new constitution were launched. Despite the negative results of the June liberalizations in the Party, it was almost as if a momentum were propelling the leaders along paths they feared to travel. The Sixth Party Congress in Zagreb, November 3–7, crystallized the trend in the form of a new theory of the Party and new roles for its constituent parts and their members.

The main purpose of the Sixth Congress, according to Ranković, was "to harmonize the Party's work with changes that have occurred in connection with the new reforms"[15] and to "suppress dangers of bureaucracy in the Party."[16] It sought to achieve this not only by extending much further decentralization in Party organization but by proclaiming that henceforth the Party would confine its activities mainly to political and ideological education and no longer seek to impose its will on government and other activities by direct order. Members of the Party were to exert influence not by the weight of their Party position but by functioning as individuals in the society.

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[12] *Ibid.*

[13] Ranković's Report to Sixth Party Congress, *op. cit.*

[14] *Ibid.*

[15] "Preview of the Sixth Congress," *Yugoslav Review*, Vol. 1, No. 8, p. 3 (October, 1952).

[16] "Report on the IVth Congress of the People's Front," *Yugoslav Review*, Vol. 2, No. 3–4, p. 17 (March–April, 1953).

Even the name of the Party was changed because "in view of the fact that the role of the Party at this stage of our social development changed to a certain extent . . . the word Party is no longer adequate." The Party henceforth was to be known as the League of Communists of Yugoslavia. The change in name was not to "affect the organizational structure of the Party, its democratic centralism," nor would the new League "reduce its rôle and responsibility for the successful development of socialism," but, still, it would be "more correct and would correspond to the present stage and perspective of future development" if the Party were to be known as a League.[17]

Under the new Statute adopted by the Sixth Congress, the Party was no longer to play the "leading role" in the development of Socialism but only a "conscious role," since the Party now has to win a leading role "on the basis of good work and extensive knowledge of the laws of society and not by a decree determining for itself that it is the leading political force." Further, the party no longer saw itself as the "initiator, organizer and leader of the struggle of the Yugoslav people," but, more modestly, "it mobilizes and moves the broadest masses of the people to action by political and organizational means, so that its struggle and achievements make it a leader."[18]

The resolution of the Sixth Congress, proclaiming that the reforms in the economy and government "make political and ideological work on the education of the masses the fundamental duty of the Communists," declared:

> The League of Communists cannot be and is not the direct operational leader and director of economic, government or social life. It is rather, by its political and ideological activities, primarily by discussion, to work in all organizations, agencies and institutions for the adoption of its line and standpoint, of the standpoint of individual members.[19]

IV. THE NEW PARTY STATUTE

The Party Statute adopted by the Fifth Congress in 1948, despite the Cominform Resolution which preceded it, "was by and large a copy of the Statute of the Soviet Communist Party . . . weighed down by Soviet practices and requirements." To "find release from such bureaucratic obstructions," the Sixth Congress adopted a new Statute which "lays down clearly the fundamental principles for the building of the Party at the present state of social development and socialist democracy."[20] The changes in the new Statute, embracing the directives of the Fourth Plenum, include the following points:[21]

1. All the Party's activities should be public. "This is no propaganda slogan," said Ranković, "but a principle that must govern the Party organizations in their everyday work."

2. Non-Party members should be urged to attend meetings of the basic

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[17] Tito's Report to Sixth Party Congress, *op. cit.*

[18] Ranković's Report to Sixth Party Congress, *op. cit.*

[19] "Resolution of the Sixth Congress of the Yugoslav Communist Party on the Role and Tasks of the Communist League of Yugoslavia," *Sixth Congress of the Communist Party of Yugoslavia* (Belgrade, 1953), p. 128.

[20] Ranković's Report to Sixth Party Congress, *op. cit.*

[21] See items on the Sixth Congress in *Borba*, November 7, 1952, and reports of Tito and Ranković to Sixth Party Congress, *op. cit.*

(lowest) Party units, whose "activities should develop as much as possible under the control and the participation of the masses."

3. Special Party units will no longer exist inside government administrative branches and "social organizations," such as trade unions and youth groups. In these organizations, individual Party members should work for the Party Program, but actual Party organizations must be based only on production and territorial divisions. That is to say, Communists will now belong only to factory units or organizations based on residence—bloc, ward, village, etc.—except where special *ad hoc* groups might be formed to deal with specific problems.

4. Republic Party Congresses, which under the 1948 Statute had only the right to determine the tactical line, now have the right to determine the political line of the Party in their areas "based on the general political line of the CPY."

5. Higher Party organs will no longer have authority to assign specific operational tasks to basic Party units but only to lay down broad lines of policy and make general suggestions for implementation.

6. The Central Committee is no longer empowered to appoint party organizers with authority in special areas. The article of the 1948 statute granting this authority to the Central Committee, "which was literally copied from the Soviet Communist Party's statute, was again simply an undemocratic measure to justify the existence of commissars wherever they were thought necessary."

7. Central Committee candidates—"with no rights except an advisory vote" —are eliminated, and vacancies on the central committee—if the membership is reduced by a third—are to be filled by a special congress convened for that purpose.

8. The permanent bureaus of Party officials in lower Party committees are abolished. Party tasks are now to be assigned to various Party members individually, although each town, district, ward and commune committee retains a secretariat of no more than five members, headed by a secretary, "to take care of current affairs."

9. Basic Party units can now expel any of their members without reference to higher Party authority. Under the 1948 Statute, decisions to expel a member not only had to be approved by district committees, but basic units were forbidden to expel committee members. The change gives greater independence to basic units, and, since all Party members belong to a basic unit, provides the basic units with a check on the leadership, at least theoretically.

10. Basic Party units can make their own decisions regarding new members without reference to higher Party authority. The requirement for an 18-month period of candidature prior to full membership is abolished.

In addition, the name of the Politburo was changed to Executive Committee. Doubtless because no change was foreseen in the unquestioned leading role of this body, this was not discussed at the Congress.

V. ONE-PARTY SYSTEM RETAINED

None of this implied that the Party was going to lose its identity or cohesiveness. Ranković especially criticized Party workers who frequently talk about the need to make the Party a "mass organization" with emphasis on large numbers.[22] "This viewpoint," he declared, "is an erroneous one, and it certainly must have an injurious effect. . . . The strength and mass character of the Party cannot be measured simply by the number of members but also, apart from other things, by internal unity, political activity and purity. The mass character of the Party does not lie in the numbers of members but in the extent to which these members, by their activity and political work, succeed in bringing the broad masses of the people under the influence of the Party." In order to have this success, Ranković warned, the Communists must be "responsible for their work and their behavior not only to their Party organizations and leadership but to the people, to the whole of society in the first place."

The new role of the Party was said to mean the end of its monopoly in political affairs. No longer, proclaimed Edvard Kardelj, did the party "consider the determination of the political line of struggle for construction of socialist relationship as its monopoly alone."[23]

If it was not clear what this meant in fact, Tito made clear what it did not mean. It did not mean any change in the one-party system. A multi-party system would only "permit the organized destruction of revolutionary achievements for which blood has already been shed," Tito emphasized. Yet at the same time, he said, there were now new "conditions in which the revolution is in the main consummated and the transformation of society is already nearing a higher level." Under such conditions "new forms of organized mass political forces" must be set up having "an indispensable uniform program." Accordingly, Tito called on the People's Front to be reorganized into a "Socialist Alliance of Working People of Yugoslavia," which would include "the broad sections of the population, all our social organizations, groups and individuals, and Communists too. . . ."[24]

VI. THE SOCIALIST ALLIANCE

Responding to Tito's call, the People's Front at its IVth Congress in Belgrade in February, 1953, reorganized itself. The change of the People's Front into the Socialist Alliance, declared Kardelj, in his capacity as secretary general of the new organization, is, along with the change of the Party to the League of Communists, "an inseparable, component part of all the social changes that have been carried out in our country during the last few years."[25] Kardelj denied that the change was only one of name but insisted there were "substantial changes in the character and role of the People's Front in new social conditions." The Socialist Alliance, he declared, "is not a political organization of socialists but a political alliance of the working class and the whole of the working people . . . who, through this Alliance, will politically implement their government and determine the socialist policy of that government as well as all other social organs. . . . It should be sufficiently broad in its political platform so as to enable the participation in it of every citizen who comports himself honorably toward the social community and accepts the general aims of socialism—regardless of ideological and other differences in opinion."

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[22] Ranković's Report to Sixth Party Congress, *op. cit.*

[23] Edvard Kardelj's address to IVth Congress of People's Front, *Yugoslav Review,* Vol. 2, No. 3-4, p. 17 (March-April, 1953).

[24] Tito's Report to Sixth Party Congress, *op. cit.*

[25] Kardelj's address to IVth Congress of People's Front, *op. cit.*

Kardelj saw the role of the League of Communists to be one of "general ideological leadership . . . political and educational work among the masses," while the Socialist Alliance was to deal with "concrete political and other social questions." In short, the Communists, sitting as a League, were to make broad, general policy and then, as individuals, lead the Socialist Alliance in applying it to specific situations.

However, Kardelj exhorted the Socialist Alliance to independence, and warned the Communists "to put an end to the so-called duplication of work, that is an end to the practice whereby the Party organizations at their meetings decided all political and other questions and then simply forwarded these decisions to the People's Front organizations for approval."

VII. THE "WITHERING AWAY OF THE PARTY"

These changes announced for the Party, although they might significantly alter the method of operations, implied no essential change in the Party's dominant position in the society. There now came, however, a concept of a more startling character: the "withering away of the Party."

Communist theory has always embraced as a goal—however distant—"the withering away of the state," but since the early days of the Soviet Union what would happen to the Communist Party had not been discussed.[26] Now in Yugoslavia, the Communists contended that the "withering away of the state" was in actual process. This being the case, Tito admitted, "the Communist Party cannot continue to function in the same old way. . . . If the state does not wither away, then the Party becomes, in a certain sense, an instrument of the state, a force outside of society. If the state really withers away, the Party necessarily withers away with it. Many of our own people do not realize this fact yet. We have to explain to them gradually of what this withering away consists, and we have begun to do so."[27]

Tito first publicly mentioned the concept of the "withering away of the Party" even before the Sixth Congress, but it was only with the publication of his biography by Vladimer Dedijer right after the Congress that the idea entered discussion among the rank and file. Tito again referred to the concept after the Congress in replying to questions of some young Communists regarding the future role of the Party.[28]

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[26] A 1920 resolution of the Comintern held that "the necessity for a political party of the proletariat" would cease "with the complete abolition of classes," at which time the Communist Party would become dissolved completely in the working class. . . . " *Kommunistichestkii Internatsional v Dokumentakh* (*Communist International in Documents*), p. 100 (Moscow, 1933).

[27] Dedijer, *op. cit.*, pp. 428–431.

[28] Fred Warner Neal, "Yugoslav Communist Theory," *American Universities Field Staff Reports*, FWN-5- (Yugoslavia, 1954), p. 5.

Even at the time of the Sixth Party Congress, confusion was apparent throughout the ranks of the Yugoslav Communists. The Politburo did not have a formal Program to propose to the Party, Milovan Djilas explained, because "it was decided that our own socialist development . . . was not sufficiently clear in outline."[29] It was obvious from remarks of the leadership at the Congress, cited above, that already the liberalizing directives of the Fourth Plenum had produced uncertainty among the rank and file. The actions of the Congress, plus the new concept of the "withering away of the Party," compounded the confusion and produced a crisis in the party that led some months later to the Djilas Affair.

VIII. PARTY DECENTRALIZATION

Meanwhile the main organizational changes in the Communist Party following the Sixth Congress concerned decentralization of functions and a reduction of the Party apparatus at various levels. This had, in fact, begun even before the Congress. Ranković, in his address to that body, testified that "860 comrades who held posts of leadership in the Party and state apparatus" had now gone to other work. Some of these functionaries left the employ of the Party, while others were assigned to local units. In November, 1952, there were 901 paid party workers assigned to district and city committees, or one for every 865 Party members, but, Ranković declared, "more must be done on the gradual reduction of the number of professional Party workers."[30]

The reduction proceeded on all levels, in large part by curtailing Party functions. For example, all formal agitation-propaganda work and supervision of such organizations as women's and youth groups, was turned over to the Socialist Alliance. Work on Party cadres and so-called ideological-educational work among Party members was turned over to local Party units.

From the secretariat of the Central Committee in Belgrade were eliminated the agitation-propaganda, cultural and military departments. The Secretariat's apparatus as reorganized consists of a personnel or cadre department, an organization department, a financial department and a record department concerned with, among other things, the history of the Party. To the Secretariat is also attached a control commission, with the task of enforcing decisions of the Executive Committee and Central Committee, checking on lower Party units and ferreting out serious ideological aberrations.[31]

Also attached to the Secretariat were the High Party School in Belgrade, where budding Communist leaders received training in Marxism, Yugoslav brand, and so-called lower Party schools where lesser functionaries received ideological training and indoctrination. The Secretariat also has instructors conducting various courses and seminars at the local level. Between 1948 and 1952, 560 persons attended the High Party School, 17,196 attended the lower Party schools and 3,282 members, mostly local leaders, participated in other formal Party instruction.[32]

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[29] Address of Milovan Djilas, "On the Programme of the League of Communists of Yugoslavia," *Sixth Congress of the Communist Party of Yugoslavia* (Belgrade, 1953), p. 88.

[30] Ranković's Report to Sixth Party Congress, *op. cit.*

[31] This information was given to the writer by officials of the Secretariat in Belgrade on August 27, 1954.

The secretariats of the republic central committees were practically decimated by this decentralization. For example, the secretariat of the Central Committee of Montenegro, the smallest in Yugoslavia, had only two full-time employees in the fall of 1954.[33] However, since almost all high Party officials are also government officials, much party work is in fact carried on from government offices. For instance, Mito Hadži Vassilev, a member of the Central Committee of Macedonia and also a member of the Macedonian Republic Executive Committee, told the writer in 1954 that he spent most of his time on work for the Party and the Macedonian Socialist Alliance, of which he is secretary. Except for expenses, he was paid entirely by the Macedonian Republic.

On the lower levels especially, many Party functionaries, loath to lose good jobs, fought the decentralization. Resolutely pushing the new program, *Borba* denounced such Communists and declared that "they played into the hands of reaction. . . ."[34]

While the formal decentralization of Party activities was real enough, the meaning of the extension of autonomy to lower Party bodies was less clear. Operationally, to be sure, local Party Committees were more on their own, and the right to recruit and expel members was, theoretically at least, an important one. However, the Yugoslavs claimed that the right of Republic Party Congresses to determine their own "political line" had "profound meaning" and that it showed "more sharply" than anything else the contrast between the Soviet and Yugoslav Parties.[35] The limited nature of this right can be seen in the following "hypothetical example of this change in practice," cited to illustrate "the tremendous significance of the new principle in the future development of the Yugoslav Communist Party and to the entire program of building a Socialist democracy as well:"

> Under the former system of Party organization, if the national Congress fixed a specific goal for the numerical growth of agricultural cooperatives, in, let us say, Croatia, the task of the Croatian Party was limited to working out the ways and means of reaching that figure. Under the new provision, it would be up to the Croatian Communist Party to determine under the specific conditions understood by those living and studying the situation on the spot how strong a cooperative drive should be launched at any specific period, what short-term balance between private and socialist holdings should be encouraged, what type of cooperative organization would be most effective and practical within given conditions, and so forth.[36]

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[32] Tito's Report to Sixth Party Congress, *op. cit.*

[33] Statement of Blažo Jovanović, chairman of the Montenegro Central Committee, to writer on September 24, 1954.

[34] *Borba*, August 23, 1954.

[35] "Toward Greater Democracy in Party Organization," *Yugoslav Review*, Vol. 1, No. 8, p. 3 (October, 1952).

[36] *Ibid.*, p. 3, p. 15.

IX. THE PARTY MEMBERSHIP

The high point in Party membership was reached in 1952, just before the Sixth Congress, when 779,382 persons belonged. The tightening of discipline the following year resulted in a sharp increase in the number of expulsions, reducing the membership to 700,030 at the beginning of 1954. Table I shows the trend of Party membership:

TABLE I. PARTY MEMBERSHIP

Period	Number of Members
June, 1945	140,000
June, 1948	448,175
December, 1949	530,000
December, 1950	607,443
December, 1951	704,617
June, 1952	779,382
January, 1954	700,030

Source: Figures for 1945–1952 are taken from Reports of Tito and Ranković, *Sixth Congress of the Communist Party of Yugoslavia*, Belgrade, 1953. Figure for 1954 was given to the writer by officials of the Secretariat of the Central Committee in Belgrade.

In 1952, the Party accounted for 8.43 per cent of the adult population of Yugoslavia, or 4.72 per cent of the total population. In 1948, peasants comprised approximately 50 per cent of the Party membership, and workers less than 30 per cent. By 1952, the number of workers had increased by only 2.5 per cent, while the number of peasants decreased by 7 per cent. The Party leadership then ordered a drive to increase the number of workers in the Party.[37] By the beginning of 1954, this had succeeded to the extent that for the first time there were slightly more workers than peasants in the Party.[38]

Table II, presented by Ranković to the Fourth Plenum of the Central Committee in 1954, shows the social pattern of Party membership as well as its geographic distribution at the beginning of that year. Women made up 20 per cent of the membership in 1948 but only 13 per cent of the membership in 1952. By 1954, according to figures provided by the secretariat of the Central Committee, the number of women in the Party had increased to 121,159, or approximately 18 per cent. Party officials constantly exhort their comrades "to eliminate sectarian, conservative and undemocratic attitudes toward women."[39]

Not only the low ideological level of the Communists but their low literacy level as well is a source of concern to the leadership.

Blažo Jovanović, a member of the national Executive Committee (Politburo) and head of the Montenegro League of Communists, complained to a Party Congress in Titograd:

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[37] Ranković's Report to Sixth Party Congress, *op. cit.*

[38] Apparently the trend toward an increase of workers in the Party continued during 1954. The Sarajevo newspaper, *Oslobodjenje*, on December 21, 1954, put the percentage of workers at 32.9.

[39] See, for example, Ranković's remarks, *Politika*, November 9, 1952.

> There is a considerable number of those [Communists] who are not up to the events and are unable to settle the problems by which they are confronted in the course of socialist development. In the countryside, there is a considerable number of Communists who are either semi-literate or illiterate, who can hardly read the newspapers, not to mention anything else. And if they read the papers, they can hardly understand what they write about. As for those Communists, it is their prime task and obligation to learn how to read. . . .[40]

TABLE II. COMPOSITION OF PARTY MEMBERSHIP

Area	Workers	Peasants	White Collar Employees	Other	Total
Serbia	70,120	98,504	71,398	30,624	270,646
Croatia	47,816	30,122	42,573	17,737	138,248
Bosnia-Herzegovina	25,615	17,828	28,009	7,717	79,169
Slovenia	18,846	4,053	21,096	8,368	52,363
Macedonia	9,564	17,377	13,314	4,911	45,166
Montenegro	4,697	10,105	5,556	1,812	22,170
Army	14,997	11,403	7,285	58,583	92,268
Total	191,655	189,392	189,231	129,752	700,030[a]

[a] Includes 25,096 persons who joined the Party during 1953. See Table III.
Source: *Komunist,* No. 4, p. 267, April, 1954.

In Bosnia-Herzegovina, less than 22 per cent of the Party members had gone beyond elementary school in 1948, while in 1954 63.2 per cent had gone beyond elementary school. Of these, 46.8 per cent had only a partial secondary school training, 10.3 per cent had finished secondary school and 6.1 per cent had complete or incomplete university training. While some of these increased percentages reflected addition of newer members between 1948 and 1954, much of it resulted from adult education.[41] The level of education of Party members is higher in Serbia, Croatia and Slovenia.

X. PARTY DOMINANCE

All members of the Party belong to the Socialist Alliance of Working People, which had in 1954 a total membership of about 8,000,000.[42] Under the Statute adopted by the IVth Congress of the People's Front, the Socialist Alliance is composed of both organizations and individuals. Although organizations as such may belong, their members, in order also to be members of the Socialist Alliance, must themselves "enroll personally" in one of the basic organizations of the Alliance. Like the Party, the Alliance is organized at the federal, republic, local and "bloc" levels.

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[40] *Pobjeda,* Titograd, October 24, 1954, p. 2.
[41] *Oslobodjenje,* December 21, 1954, p. 1.
[42] Tito's Report to Sixth Party Congress, *op. cit.*

The Socialist Alliance is completely dominated by the League of Communists. Officially, its highest body is a Federal Board, which in turn elects a presidium. Of the 27-man presidium named at the Fourth Congress, 21 were members of the Central Committee of the League of Communists. The presidium embraced all but two members of the Party's executive committee. Tito, secretary-general of the Party, is president of the Socialist Alliance, and Kardelj is its secretary-general. The Secretaries of each republic organization of the Alliance are members of the republic Party central committees.

The Alliance serves the Party not only as a front organization but also as a coordinator of most organized group activities aside from the Party itself. Whereas prior to 1952, the chief activity of the People's Front was to rally large groups for "voluntary work" on construction projects,[43] the Socialist Alliance now goes in for more political work. While the number of paid functionaries of the Party has declined, those of the Alliance increased as it took over activities from the Party. Chief of these new functions is political propaganda, practically all of which is now handled by the Socialist Alliance. This includes not only election propaganda and hortatory material—such as wall signs saying "Long Live the Balkan Pact!"—but also organization of mass meetings, speeches by government dignitaries, etc. Socialist Alliance committees pay especial attention to elections, instructing their members on procedure to be followed at voter's meetings and the like. *Borba*, which had been the official organ of the Party, is now the organ of the Socialist Alliance.

As a part of its work in "educating the masses" for the Party, the Socialist Alliance relies on its large member organizations as "transmission belts." Chief among these are the People's Youth Organization, the Association of Anti-Fascist Women, The Federation of Veterans and the Federation of Disabled War Veterans, associations of journalists, writers, artists and teachers, and various children's organizations. Since, in addition to meetings and other activities, most of these groups have special publications, their coordination by the Socialist Alliance has enormous propaganda possibilities.

It is likely that the Party finances some activities of the Socialist Alliance, although there is no evidence on this point. The Socialist Alliance nets about 40,000,000 dinars a month from dues. In 1954, the Central Committee decreed a reduction in Party dues that was estimated to cut Party revenues from dues nearly 45 per cent.[44] Even with these reductions, however, dues would bring the Party some 75,000,000 dinars a month.[45]

While monthly dues in the Socialist Alliance are five dinars per member, in the Party dues are graduated according to the income of the member, except for peasants who pay a flat rate of 30 dinars a month; students not on a scholarship and Communists without monthly income, who pay 20 dinars; and army conscripts, who pay two dinars a month. All Communists receiving monthly cash wages pay according to the following scale: up to 10,000 dinars, one half per cent of income; 10,000 to 20,000 dinars, one per cent; 20,000 to 35,000 dinars, 2 per cent; above 35,000 dinars, 3 per cent. Three per cent of monthly earnings also is paid by artists, authors, lawyers, craftsmen and other Communists not formally employed.[46]

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[43] For a discussion of this, see Tito's Report to Sixth Party Congress. *Ibid.*

[44] See discussion on Party dues in *Komunist*, No. 9–10 (October–November, 1954).

[45] The writer's estimate, based on the breakdown of membership in Table II.

XI. TRADE UNIONS AND THE ARMY

Two other transmission belts whose activities are generally outside the Socialist Alliance are of especial importance. These are the trade union *Sindikat* and the Army. The general union organization has a membership of 1,700,000 out of some 2,000,000 workers in Yugoslavia. All *Sindikat* officials are members of the League of Communists. Party members employed in factories invariably belong to the *Sindikat*,[47] which is the Party instrumentality for controlling the Workers' Councils, which run the factories in Yugoslavia. In addition, the union plays an important advisory role in government and carries out an extensive education program.[48]

"It is obvious," said Tito, "that in our country the Communist Party and the trade unions are closely bound in one single purpose—the building of Socialism."[49]

Although the *Sindikat* is affiliated with the Socialist Alliance, its top leadership also holds important Party posts, and it has direct relationship with the Secretariat of the Central Committee as well as with the Party organization on lower levels. In fact, with the extensive decentralization of government and economy that has taken place, without the trade union acting as the voice of the Party in the factory, there would be little means of enforcing the Party's will upon many individual producing units.

The army is in a special category. As in any highly authoritarian government, it is an important source of strength for those in power; at the same time it always represents a potential threat. In Yugoslavia this is particularly true. The existence of a large and tested army was a factor in Tito's independent position vis-à-vis the USSR. Tito referred to the Army as "the chief pillar of support of our peoples for preserving independence."[50] At the same time, the Army was a focus of Soviet efforts at subversion. There was, therefore, intensive Party work in the army to build up loyalty to the Tito regime. Between 1948 and 1952, 90,948 new members were admitted into the Party from the Army, bringing Army membership at the time of the Sixth Congress to 140,193.[51] In the haste to recruit new members from the Army, however, there was "inadequate attention . . . paid to necessary qualities for becoming a Party member."[52] The result was a reduction in army membership in 1953. However, as can be seen from Table II, Party membership in the Army is still more than membership anywhere except Serbia and Croatia, and almost the entire officer corps belongs to the Party.[53]

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[46] See discussion on Party dues in *Komunist*, No. 9–10 (October–November, 1954).

[47] Information given to writer by Ivan Božečević, secretary-general of the *Sindikat* on August 24, 1954.

[48] See Tito's Report to Sixth Party Congress, *op. cit.*

[49] *Ibid.*

[50] *Ibid.*

[51] *Ibid.*

[52] *Ibid.*

Indicative of the attention the Party pays to the Army is the fact that about 650 Party courses are organized annually for military personnel, in addition to about a million political lectures and 700,000 political discussion groups.[54]

XII. THE NEW PARTY SYSTEM IN OPERATION

Under the new concept of the Party in Yugoslavia, Party decisions are supposed to be carried out not by the Party organizations collectively but by individual members working in various non-Party organizations, particularly the Socialist Alliance. The task of coordinating the various "social organizations" of the country is supposed to rest with the Socialist Alliance, with the League of Communists freeing itself of administrative matters.

In fact, the division of responsibility between the League and the Alliance is often difficult to see. A not infrequent complaint of Party units is that they can't keep track of what their members are doing in various other organizations.[55] Local Party organizations still spend considerable time dealing with detailed administration of economic enterprises. *Borba*, finding evidence of malfeasance in a brickyard near Travnik, demanded: "What were the Communists doing in the brickyard . . . ?"[56] Criticizing activities of the large Zenica iron works, *Borba* denounced the local Communist organizations for failing to devote "full attention to these questions."[57]

In carrying out "ideological-political work," the League of Communists and the Socialist Alliance appear to overlap to the point of joint activity, so that it is often difficult to ascertain whether a certain project is sponsored by one or the other or by both.[58]

It is perhaps in its operations regarding local government that the Socialist alliance can be seen most clearly as an individual organization. In Kragjuevac, for example, it was reported that during 1954 the People's Committee did "not deal with a single important question without its having been discussed in the Socialist Alliance." Once action was taken by the People's Committee, the Socialist Alliance then "paid particular attention to the carrying out of these decisions and at its meetings criticized people who broke these rules."[59]

Although the Socialist Alliance operates on the basis of democratic centralism as far as its organizations are concerned, more leeway is supposed to be allowed individual members in expression of their private beliefs. For example, while the Party takes a dim view of religious activities on the part of its members, according to Kardelj: "For the Socialist Alliance and its members, religious feelings are the private concern of the individual. Within the ranks of the Socialist Alliance can be both atheists and people who believe in and belong to various religions."[60]

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[53] Relatively high officer membership is indicated in the "other" column in Table II.

[54] Tito's Report to Sixth Party Congress, *op. cit.*

[55] See, for example, discussion of Party problems in Sarajevo, *Oslobodjenje*, December 24, 1954.

[56] *Borba*, July 12, 1954.

[57] *Borba*, November 2, 1954.

[58] For examples of this confusion, see report of joint activity in *Politika*, December 15, 1954, and *Oslobodjenje*, December 27, 1954.

[59] *Politika*, January 12, 1954.

In fact, it is a question how far this leeway extends. There are frequent reports of expulsions from the Socialist Alliance of members unduly critical of the Party or regime or engaging in proselytyzing religious activity. For example the Socialist Alliance organization of Kasindol, in Bosnia, expelled four members in August, 1954. One, Lazar Bojović, "openly . . . criticized our leadership and some measures . . . making use of [Communists'] personal mistakes." Another, Despot Stefanović, "began to curse and scold people's deputies . . . and even began to assault honest people." A third, Cvija Stefanović, "began to attack those women who refused to observe church holidays. . . ."[61] These explusions, as most Socialist Alliance actions, were voted unanimously.

The whole relation of the League of Communists to the Socialist Alliance strongly indicates that the Alliance does not function significantly except through its Communist members. Blažo Jovanović put it this way:

> The activity of political work in the Socialist Alliance mostly depends upon the activity of the Communists themselves, and this is the best criterion of work and political influence of the League of Communists. In those quarters where the Communists are active, the Socialist Alliance is also active. In those quarters where the Communists are inactive . . . the other working men do not assign any importance to the work. . . . The influence and attitude of the League of Communists should predominate. . . .[62]

XIII. CONFUSION AND REACTION

What was apparent by the spring of 1953 was not that the Communist Party in Yugoslavia did not have a new role but that many Communists had no clear understanding of what the new role was supposed to be.

"It is known," wrote Stalin, "that theory, if it is really theory, gives practical people strength and orientation, a clarity of perspective, confidence at work, faith. . . ."[63] If some Yugoslav Communists wondered, as far as the Party was concerned, if there really was a theory, what perplexed others was that there seemed to be several theories which, if not mutually contradictory, were at best vague.[64]

The Communists had been told to work as individuals rather than rely on their Party status. They had been told to work with but not dominate the Socialist Alliance. They had been told not to order the government about but to criticize its activities. They had been told they must emphasize democracy and tolerate dissenting opinions. They had been told that the Party no longer had a monopoly on setting the political line. They had been told that the Party, to which they were expected to devote their lives, was to "wither away." But at the same time, and often almost in the same breath, they had been told that the Party must maintain and even augment its leading position throughout the society; that they must fight all bourgeois tendencies and anti-state activity; that they must not believe in freedom to express anti-Socialist ideas; and that they must struggle to safeguard the purity and monolithic position of the Party.

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[60] Kardelj's address to IVth Congress of People's Front, *op. cit.*, p. 18.

[61] *Oslobodjenje*, August 7, 1954.

[62] *Pobjeda*, Titograd, October 24, 1954.

[63] Stalin, *op. cit.*, pp. 299–300.

[64] See, for example, discussion on demands of rank and file to clarify frontiers between the Communist Party and the Socialist Alliance and between the Party and the government in *New York Times*, June 14, 1953, p. 12.

Given the admitted low ideological level of the Party, it was hardly surprising that the resulting confusion reached a point where, in June, 1953, the leadership decided something had to be done about it. From Brioni, his summer residence in the Adriatic, Tito summoned a Plenum of the Central Committee to deal with the matter. The Brioni Plenum, as it is known, promptly decreed a general tightening of Party discipline and a reemphasis on democratic centralism.[65]

The Plenum found that relaxed discipline had allowed "ideological and political confusion to grow" to the point where broad areas of the Party were "ceasing to be revolutionary." And it further charged:

> All kinds of uncertainty and anti-Marxist theories are starting to appear. The struggle for ideological and political unity is very weak. It is not a rare occurrence that members of the Communist League believe they have a right to protest against decrees and other measures that have been adopted in our Socialist State in a democratic manner.

Two fundamental errors among Communists were held responsible for these "negative tendencies." On the one hand, some Communists considered that "the process of democracy meant they could contribute nothing to the Party but lectures." They had become passive, ignored Party discipline, adopted "petty-bourgeois-anarchist ideas of freedom and democracy" and failed to combat "foreign and anti-Socialist manifestations." On the other hand, some Communists still believed "the Party line had not changed at all" and thought the new emphasis on democracy was only an "agitation-propaganda tactic."

Although both of these errors were to be corrected, the Plenum concentrated its fire on the former group, which clearly was considered the more harmful. So that there would be no misunderstanding about the concept of the "withering away of the Party," the Central Committee said that this concerned only the distant future, when Communism was achieved and the problem of ideological leadership was no longer present. For the foreseeable future, it was explained, leadership by the Communist Party as a disciplined and monolithic force—modified as it might be—was an indispensable factor to the development of Socialism and Communism in Yugoslavia.

It would be too much to say that a formal "purge" resulted from the Brioni Plenum, but the total of 72,467 members were expelled from the League during

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[65] Proceedings and decisions of the Brioni Plenum are contained in *Komunist*, No. 4 (July, 1953).

1953, most of them in the latter half of the year. Table III, giving figures presented by Ranković to the Central Committee in 1954, shows the distribution of members expelled as well as new members recruited during 1953.

TABLE III. PARTY MEMBERSHIP CHANGES, 1953

Area	Expelled	New Members	Decrease
Serbia	25,259	10,603	15,056
Croatia	13,949	6,113	7,836
Bosnia-Herzegovina	19,737	4,577	15,160
Slovenia	4,368	915	3,453
Macedonia	5,142	1,120	4,022
Montenegro	1,075	261	814
Army	2,537	1,507	1,030
Total	72,467	25,096	47,351

Source: *Komunist*, No. 4 (April), 1954, pp. 267–268.

Although none of the formal decisions of either the Fourth Plenum or the Sixth Congress were abrogated, the leadership made it clear that Communists were not authorized to differ with government policies where these reflected the will of the Party.[66] Since almost all government policies reflect the will of the Party, criticism of government was seriously delimited. The elections, which had been scheduled for the spring of 1953, were postponed until fall, so that the Party could apply the Plenum's admonitions in the campaign.[67]

XIV. THE DJILAS AFFAIR

The Brioni Plenum indicated that if the Party leaders did not want to reverse the trend toward decentralization and democracy in connection with the Party, they at least wanted to put brakes on it. Yet even among the high command the confusion had not been cleared up. One member of the hierarchy in particular, Milovan Djilas, felt that the decisions of the Brioni Plenum were "one-sided, that they had forgotten the struggle against bureaucratism."[68] Not only did Djilas not agree, but he "felt that the Brioni Plenum had somehow to be corrected."[69] This he set about to do by writing a series of articles in the fall of 1953 in *Borba* and finally administering what he considered a coup de grace in the theoretical magazine, *Nova Misao* (*New Thought*) in January, 1954.

Although Djilas had been given virtually a green light by Tito himself,[70] his articles went far beyond ideas expressed by anybody else in the Yugoslav Party. In fact, Djilas called for an end to the Party as an organized political force in the society, declaring that it should "wither away by merging with the Socialist Alliance while individual Communists should merge with the ordinary citizen. . . . The Leninist type of both Party and state dictatorship by means of the Party has become obsolete," Djilas asserted,[71] and he added:

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[66] See, for example, various articles in *Borba*, July 4, and September 29, 1953, exhorting Communists to prevent workers' councils from making decisions contrary to government and Party policy.

[67] *New York Times*, March 14, 1953, p. 2. See also admonition to Party members regarding election in *Borba*, September 8, 1953.

[68] See Djilas's second statement at Third Plenum, *Komunist*, No. 1, p. 157 (January–February, 1954).

[69] *Ibid.*

[70] See Tito's first speech to Third Plenum, *ibid.*, p. 4.

"The goal of complete Communism is too distant to be meaningful. . . . The goal today is quick progress of socialism and democracy through concrete and feasible forms—not Communism."[72]

Not only was Djilas carrying the concept of the Party in Yugoslavia to what he saw as its logical conclusion, but also he was going to the heart of the theoretical principle involved. Underlying his reasoning, as he later explained it, was the belief that the Yugoslav Communists had abandoned the Leninist concept of the Party. As Djilas saw Leninism, "objective truth" was arrived via the Marxian dialectic. Under this concept, he agreed, there had to be strict democratic centralism; there had to be, in fact, a dictatorship of the Party leadership because that leadership was responsible for carrying out the exact line determined by the dialectic. But now, as Djilas saw it, Yugoslav Communism had gone beyond this stage and had abandoned the Leninist concept for a more or less pragmatic approach. It had no definite line, and it did not need one, because there was no longer any danger from anti-Socialist forces. But there was a danger from Party bureaucracy. Truth, no longer seen via the dialectic, now had to be arrived at by free discussion. This meant abandonment of democratic centralism to permit formation of "ad hoc blocs" of Party members which could differ among themselves on various questions. This being the case, the Party, as a Party, was no longer needed. The alternative meant decision simply on the basis of the personal ideas of the Party leaders, and since they were fallible, this inevitably created the danger of erroneous decisions.[73]

Djilas's last effort was the most extreme. In a bitter, satirical attack on the very top "inner circle of Party bureaucrats," he charged that they maintained their existence in "a world closed from the nature of power and the manner in which it was attained."[74] The generally vague, philosophical manner in which the Djilas articles were written were here spiced by indirect but obvious references to Colonel General Peko Dapčević, chief of staff of the Yugoslav Army, and his 21-year-old actress bride.[75]

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[71] *Borba*, January 4, 1954.

[72] *Borba*, December 6, 1953.

[73] "Yugoslav Communist Theory," *op. cit.*, p. 6.

[74] "Anatomija jednog Morala" ("An Anatomy of Morals"), *Nova Misao*, p. 7 (January, 1954).

[75] This article criticized not Colonel Dapčević or his wife but the top Party echelon, including its distaff side, for snubbing an earnest young woman simply because she did not have an ideologically-approved past. According to Belgrade rumors current at the time, Djilas himself was enamored with Mrs. Dapčević. "Yugoslav Communist Theory," *op. cit.*, p. 7.

XV. DJILAS DISCIPLINED

It was an indication of the extent of the ideological confusion in Yugoslavia that it was not immediately obvious to all that Djilas had placed himself in a position of irrevocable opposition to the top Party leadership. There was widespread discussion among the Communists and in the press about Djilas's articles. Generally speaking, they were popular among the rank and file, and even some members of the Central Committee hailed them.[76] Even when Tito, Kardelj and Ranković finally realized what was happening and sent word of their disapproval, Djilas continued to publish his views. A showdown was then clearly at hand, and it was apparent that Djilas had intended it so.[77]

The showdown was not long in coming. On January 10, 1954, *Borba* announced that Djilas's articles were "contrary to the opinions of all other members of the Executive Committee" and that the matter would be taken up at the forthcoming Third Plenum of the Central Committee.

The Third Plenum, convened January 16, in effect put Djilas on trial. In keeping with the Sixth Congress admonition that Party proceedings were to be public, the Plenum was not only open but its proceedings broadcast. The Party leadership arose one by one to denounce their friend and colleague for deviationism. Tito seemed to do it more in sorrow than in anger. "In Comrade Djilas," he said, "I see a comrade." Kardelj accused Djilas of following Eduard Bernstein, who was expelled by the German Social Democrats in 1899 because of his denial of Communism as an ultimate goal and his insistence that democracy was the principal consideration. Moše Pijade, heaping bitter invective on Djilas, referred to his writing as "political pornography." Only Vladimir Dedijer recalled that "a week ago Milovan Djilas's postulates in *Borba* were more or less adopted by the majority of us who are sitting here. . . . All at once the very same people who approved these articles are attacking Milovan Djilas fiercely. . . . " And Dedijer asked: "How can we think one thing today and all of a sudden change our opinion overnight?"

The answer to Dedijer's question appeared to be that "all of a sudden" the top hierarchy of the Party realized that their dictatorship of the proletariat was being challenged. That they did not intend to preside over its dissolution, despite all talk about democracy, responsibility to the masses and "withering away," was made clear by Tito himself. The Djilas affair, Tito told the Central Committee, has

> done a lot to open our eyes and thoroughly wake us up. . . . For we never imagined that there were any (least of all Comrade Djilas) who thought that in Yugoslavia the class enemy was already liquidated. . . . The class enemy exists, and it is very clear after Djilas's articles that he exists in the League of Communists. He is manifest in various forms.

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[76] See Thomas Taylor Hammond, "The Djilas Affair and Yugoslav Communism," *Foreign Affairs*, Vol. 33, No. 2, p. 308 (January, 1955).

[77] See Kardelj's remarks at Third Plenum. The speeches and decisions of the Third Plenum are contained in *Komunist*, No. 1–2 (January–February, 1954).

As for the "withering away" of the party:

> I was first to speak of the withering away of the Party . . . but I never said this was to take place in six months or a year or two, but rather that it was a lengthy process. There can be no withering away or winding up of the League of Communists until the last class enemy has been immobilized, until the broadest body of our citizens are socialist in outlook. . . . The League of Communists . . . must exist, and not merely exist, but also be ideologically stronger. . . .

Tito added that Djilas's ideas would lead "to anarchy, to a terrible uncertainty" and added: "If we permitted this, in a year's time our socialist reality would not exist. It would not exist, I tell you, without a bloody battle."

In two statements, notable for their rambling ambiguity, Djilas was contrite, but he did not recant. He said he realized he had been in error, but he added: "It would not be honest if I said that now, suddenly, all the ideas I have held were wrong. This I cannot do."

Djilas was expelled from all Party posts and given a "final warning." Although not expelled from the Party, he soon resigned. No attempt was made against his person, but he was ostracized by his former comrades. The whole affair, of course, was in striking contrast to Soviet practices. A few years earlier Djilas might well have been summarily dispatched by a firing squad. He himself declared that he survived "as a monument to the Cominform resolution."[78] And Tito referred to "the step we would have had to take in the days of the sharp revolutionary struggle."[79]

XVI. IMPACT OF THE DJILAS AFFAIR

It is not easy to assess the impact of the Djilas Affair. Djilas was undoubtedly correct when he said later "there are no Djilasites, in any formal, active sense," but he was also right when he added "there is lots of Djilasism, though."[80] True, its manifestations were largely negative. For one thing, as a Communist leader admitted almost a year later, throughout Yugoslavia "intellectuals are avoiding writing about the theory of Marx-Lenin. . . ."[81] A Croatian Communist declared: "We will not go against the Party leadership, but we have stored up new ideas which the future will permit us to utilize." A Slovenian Party functionary made the surprising admission that "ideology is unimportant."[82]

Party officials themselves testified to the existence of "Djilasism" at the same time they denied it. A member of the Montenegro Central Committee, declaring "there does not exist an intensive life in the League of Communists, admitted: "We have allowed this state of affairs to come about to some extent . . . because of the influence of Djilas's writings. . . ."[83] Another Montenegrin

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[78] "Yugoslav Communist Theory," *op. cit.*, p. 7–8.

[79] *Komunist*, No. 1–2, p. 163 (January–February, 1954).

[80] "Yugoslav Communist Theory," *op. cit.*, p. 9.

[81] *Pobjeda*, October 24, 1954.

[82] These statements were made to the writer in the summer of 1954.

[83] *Pobjeda*, October 24, 1954.

Party official warned of "anarchistic manifestations which Djilas fanned here by his personal influence and his conceptions and writings." Lest any think that this was true only in Djilas's Montenegro, he added that the situation of which he complained "is acute . . . not only in Montenegro but in general."[84]

Yet the control of the Party hierarchy was never seen to better advantage than in the manner in which the matter was hushed up immediately. Once the Third Plenum had ended, there was almost no further public discussion or even mention of the affair, nor did any of the Party organizations go into it.[85]

XVII. DJILAS'S SECOND HERESY

The last had not been heard of *l'affaire* Djilas, however. Among those examined by the Control Commission were General Dapčević, who had figured so prominently in the *Nova Misao* article and whose brother had been caught trying to escape eastward after the Cominform Resolution; Mitra Mitrović, Djilas's first wife, who had indicated some sympathy—although not support—for Djilas at the Plenum; and Vladimir Dedijer, who alone had spoken in favor of his friend. All three were members of the Central Committee. The Commission apparently decided there was no question about General Dapčević, and Miss Mitrović also satisfactorily passed her *proverka*.[86] Dedijer not only did not pass—he reiterated his support of Djilas's ideas—but he challenged the right of the Commission to examine him.

Dedijer went even further. In mid-December, 1954, he walked out on a meeting of the Control Commission, leaked the episode to Western newspaper men in Belgrade and then gave an interview to the Belgrade correspondent of *The Times* of London.[87]

During this contretemps, Djilas had remained in his "splendid isolation." Now, however, the correspondent of the *New York Times* went to him and asked his opinion. Djilas responded with a view even more startling and heretical than those expressed in his articles a year previously. If there was to be no really free discussion inside the Party, he said, then Yugoslavia should have a two-party system. He thought a "new democratic Socialist party" should be formed to compete with the League of Communists. He denounced the Control Commission's examinations as "an attempt to frighten the democratic elements in the Party."[88]

Tito was in India at the time this interview was published, but Kardelj, as acting president, did not hesitate. He assailed Djilas and Dedijer for "blackmail" and demanded their prosecution on charges of hostile propaganda. The Federal Assembly voted to strip Dedijer of his parliamentary immunity. The Central Committee, acting on a recommendation from the Control Commission, suspended him.[89] Three days after his statement appeared in the *New York Times,* Djilas was expelled from the Socialist Alliance, and the basic organization of the Alliance to which he had belonged "demanded that criminal proceedings should be taken against" him.[90]

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[84] *Ibid.*

[85] Conversation of the writer with Blažo Jovanović.

[86] *Proverka* is a Russian word generally used in Eastern Europe for such examinations. For information regarding the Control Commission's examinations, see *New York Times*, December 22, 23, 26, 29, and 31, 1954.

[87] *The Times*, London, December 22, 1954, p. 8.

[88] *New York Times*, December 25, 1954, p. 1. Djilas's views were not "cooked up" on the spur of the moment, however. He had confided them to the writer in a conversation almost two months earlier. See "Yugoslav Communist Theory," *op. cit.*, p. 9.

A few days later Djilas was expelled even from such an organization as the sport fishing society *Dunav* "because of his harmful and treacherous work against our peoples. . . ."[91]

The trial began on January 24, 1955, and, contrary at least to the spirit of the statute, was not open to the public.[92] Great emphasis was placed on the fact that Djilas and Dedijer found a platform for their views in the foreign press. Tanjug, the official Yugoslav news service, termed the pair "foreign interventionist tools,"[93] and a veritable orgy of criticism against the Western press ensued.[94]

Djilas and Dedijer were convicted, one receiving a sentence of 18 months, the other a sentence of six months. But the sentences in both cases were suspended—that is, the pair was placed on probation, Djilas for three years, Dedijer for two—and they were freed.[95] In many ways, considering the gravity with which their offenses were viewed, the sentences were tantamount to acquittal.

Once again, the new and anomalous character of Yugoslav Communism had been manifested. While the results of the trial doubtless frightened some wayward Party members into conformity, it did little to solve the fundamental question still facing the Yugoslav Communists: Conformity to what?

XVIII. CONCLUSIONS

The Yugoslav Communist Party can take credit for having steered Yugoslav Communism toward somewhat less totalitarian paths and for having pioneered in new forms and theories of Marxism. This development resulted from Yugoslavia's explusion from the Cominform, and it was doubtless accelerated by the close relations between Tito and the West during the period 1950–1954. But however much the Yugoslav leaders were forced by events into this new position, they have appeared to hold it sincerely. There has been little if any indication so far that they have been swayed in this regard by the ups and downs of their relationships with the Soviet Union during the past two years. The importance of the Yugoslav experience is seen in the undoubted impact it has had on Communism elsewhere in Eastern Europe.

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[89] *New York Times,* December 28, 1954, p. 1. See also Kardelj's remarks to the Second Congress of the League of Communists of Bosnia-Herzegovina, *Borba,* December 28, 1954.

[90] *Borba,* January 6, 1955.

[91] *Borba,* January 6, 1955, p. 1.

[92] Associated Press dispatch in *Christian Science Monitor,* January 24, 1955, p. 1.

[93] *New York Times,* January 7, 1955, p. 1.

[94] See, for example, *Borba* and *Politika,* January 4, 1955.

[95] *New York Times,* January 24, 1955, p. 1. Although unable to find employment, Djilas continued to heckle the government from his Belgrade apartment. On May 31, 1956, he complained in a letter to the *New York Times* that Yugoslav publishers refused his manuscripts for political reasons. While Tito was in Moscow in June, 1956, he wrote a series of articles for the Hearst and other foreign newspapers attacking the new Soviet leadership with which Tito was then making further rapprochement. Cf. New York *Journal American,* June 11, 12 and 13, 1956. For these likely violations of his probation, he received only abusive criticism in the Yugoslav press. But when, at the time of the Hungarian uprising, he wrote an article for the *New Leader* attacking the ambiguity of Tito's stand (November 19, 1956, pp. 3–6), this was too much. He was sentenced to prison for three years. This time there was no probation. See *New York Times,* December 13, 1956, p. 1.

The over-all picture presented by the Yugoslav Party, however, is one of confusion and uncertainty produced by the effort to maintain a Communist dictatorship at the same time that democracy is emphasized and the government and economy decentralized. Tito and other Party leaders apparently want to develop their own brand of Socialism by popular support and participation rather than by Party control, but they fear that there is not enough popular support to accomplish it.

Whether the Party can continue indefinitely in this ambiguous position without returning to the traditional postion of a dominant Communist Party or without losing its hold on Yugoslav society is unclear. The Djilas affair was an indication that the leadership saw the need to tighten Party discipline as well as an indication of the limits of freedom in Yugoslavia. But, despite the elimination of Soviet hostility, which originally prompted the new directions, there has so far been no concrete evidence of a shift back to the Stalinist concept of the Party as a "gendarme for the government."

HOW DIFFERENT IS TITO'S COMMUNISM?

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Neal's article constitutes a good survey of what the Yugoslav Communists have said in recent years about the role of the Communist Party in their system. From a critical standpoint, however, it stops short of cutting through the Communist jargon. This has led him into taking contradictory positions. In the comments that follow, I will confine myself to examining his major conclusion that Yugoslav Communism has "pioneered in new forms and theories of Marxism," and the related inference, implied more than once, that Yugoslavia may be evolving toward democracy.

I

There is some doubt, to say the least, as to whether the body of the article supports the contention that the Yugoslav Communists have produced any significantly new theories of Marxism. Is it not necessary to inquire whether there are new theories in these various utterances or whether this is the Communist "New Speak"? To what extent is this theory and to what extent is it jargon, a way of rationalizing and providing "theoretical" justification for the improvisations which economic and other considerations have forced upon the Yugoslav leaders? How much, for example, has been changed by calling the Party a League, or the People's Front the Socialist Alliance? Are not Yugoslav Communists engaging in double-talk when they state that the Communist Party is not now the "initiator, organizer and leader of the struggle," but that "it mobilizes and moves the broadest masses of the people to action by political and organizational means. . . ."? Is there a significant difference? If so, what is it?

Furthermore, it may be asked, has the fundamental concept of the Party been altered in any significant way with respect to its monopoly of political power (as well as political wisdom), its disciplined organization, or its conviction that Communism (Marxism) should be imposed upon the country irrespective of the wishes of the people? If so, I have not detected it.

True, there was a period of uncertainty and confusion among Party members concerning their functions, but should that be dignified by calling it theory? And, as Neal points out, the period of uncertainty did not last long, for the Brioni Plenum (June, 1953) "decreed a general tightening of Party discipline and a re-emphasis on democratic centralism." This theme has been re-echoed since. At the March, 1956 Plenum, for example, Tito asserted that Communists "cannot be educators of the masses if they do not function as a unitary organism. . . . We must have an ideationally and organizationally monolithic League. . . . I think that a Communist must never and in no function, irrespective of where he may be, lose sight of his basic task—to act as a Communist, to act as an internationalist, with an internationalist concept of all happenings."[1]

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* Author of *Tito's Promised Land* (Rutgers University Press, 1954).

[1] *Borba*, March 14, 1956.

With respect to practice as distinct from theory, Neal is aware that the Communist Party in Yugoslavia will not "reduce its role and responsibility for the successful development of socialism," and that certain changes "implied no essential change in the Party's dominant position in the society." Nevertheless, at one point he refers to the "peculiar nature of Yugoslav Communism that has set it apart from the Soviet variety." Yet his description of the various "transmission belts" utilized by the Party does not suggest any significant practical divergence between the roles of the Yugoslav and Soviet parties. At another point, he asserts that "both the ideological and operational position of the Party also underwent considerable change after 1948." Elsewhere, he admits that "What was put in its place was less a theory than a method of action. . . ."

Wherein lies any important difference in method of political action? With respect to the monopoly of political organization by one party? Communist control of the secret police, the means of communication, the key army and governmental posts? Nowhere does Neal refer to any changes in theory or practice concerning the functions, activities or *raison d'être* of one of the most important institutions of Communist rule—the secret police (UDBA). Neither has he, nor anyone else to my knowledge, presented any significant evidence that Party members are exerting their influence as "individuals in the society" apart from the weight of their Party position.

In any study of Yugoslav Communism, it is necessary to guard against the danger of substituting appearance for reality. Neal is aware of this when writing about the Party's relationship to the former People's Front. "The Socialist Alliance," he concludes, "is completely dominated by the League of Communists. . . [it] does not function significantly except through its Communist members." If the Party is no less influential in the Socialist Alliance than it was in the People's Front, what then has changed? Perhaps there is now a little more open use of the Alliance and a certain effort to avoid duplication of functions. But this does not constitute, it seems to me, a change in the Party's role but only in the instruments which it utilizes in playing that role. True, there have been organizational changes, but it is still necessary to look below the surface. By making it mandatory that the head of the local government unit be someone other than the head of the local party organization, the Party partially shields itself from criticism in the event of failures, especially when scapegoats are needed. Hence, the move could quite as readily be interpreted as a Party attempt to build a wall of respectability around itself. Moreover, we cannot assume, in the case of the organizational changes, that promise and performance will coincide. After all, Soviet party statutes provided for party congresses that were never held. And it should be noted that the Yugoslavs did not hold a party congress in 1956, as required by their party statutes.

II

Whether he intended it or not, Neal's article conveys the impression that Yugoslavia may be evolving toward democracy, a conclusion I cannot share. Moreover, some of his statements suggest that the Yugoslav Communists may be supporters of democracy and that the Party may have substantial support among the people, conclusions which in my opinion are untenable.

By asserting that "1952 was the high point of enthusiasm for democracy among Yugoslav Communist leaders," he implies that at least at some point in recent years Yugoslav Communists were *for* democracy. It is true that they talked about democracy and democratization, but these words did not and do not mean to them what they mean to us, and they have been careful to point this out.[2] I do not believe that Neal would argue this point; if I am right, then it is all the more unfortunate that his statement conveys a meaning he did not intend.

In a similar vein, the author's statement that "Whether the Party can continue in this ambiguous position . . . without losing its hold in Yugoslav society. . . ," implies that it now has a hold, that it commands popular support. Perhaps this is not the intent of this phrase, for certainly the Party is not popular with the people. Likewise statistics which show that 50% of the Party members at a given date were peasants may suggest that the Party has support among the peasants, yet such an inference would be totally erroneous.

Developments in Eastern Europe in the fall of 1956 suggest that there may be no half-way house between Communism and democracy, or at most, that so-called National Communism may constitute a perilously unstable way station. Milovan Djilas, commenting upon events in Eastern Europe, seemed to support this view when he stated that National Communism is incapable of leading to freedom, and that "it is only a phase in the evolution and withering away of contemporary Communism."[3] Since Djilas represented to Neal a kind of symbol of evolving democracy in Yugoslavia, his arrest following the publication of these views would seem to testify in favor of Djilas' position and against that taken by Neal. Even before Djilas' arrest, however, it might have been pertinent to ask why Djilas should attract so much attention when no one in the West had heard publicly of the arrest and imprisonment of the venerable seventy-five year old Madame Darinka Grujić. And we can only guess how many others are in Tito's jails because of their belief in democracy.

Tito himself has revealed perhaps more than he intended about National Communism when he defended Soviet intervention in Hungary as the lesser evil. The situation had so deteriorated, he said, that Communists did not dare admit that they were Communists, for when they did so they were shot. What does this suggest about the popularity of Communist regimes or of Communists? We need to keep in mind that the hatred which the peoples of Eastern Europe, including those of Yugoslavia, have for Communism stems by and large much more from the deeds and acts of their "own" Communists than from those of the Soviet Union.

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[2] For example, see Tito's speech before the Central Committee, *Borba*, March 14, 1956.

[3] *New Leader*, Vol. 39, pp. 3–6 (November 19, 1956).

AMERICAN POLITICAL THOUGHT AND THE STUDY OF POLITICS*

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The title of this essay poses not one vexing issue but two, and each of them sharply challenges the student of American political thought. The first might be called the common problem of political theory—the question of its relevance to the institutional facts of life. How, it is asked, can the analysis of political ideas help to illuminate our understanding of political action? Can theory lead us to a surer knowledge of why governments and electorates behave as they do? Can it help us to diagnose and prescribe? Or is the study of theory, on the contrary, justified simply on the ground that the words of Plato and Hobbes and Locke are part of what Matthew Arnold called culture: "the best that has been thought or known in the world"? This is, I take it, a problem universal among students of political thought, whether they choose America, Europe, or China as their realm; and it lends itself to no easy answers.

When the realm is America, however, a second issue is presented—what may be described as the special problem of American political thought—and surely no reflective student of the subject has been untroubled by it. The difficulty, to be downright, is that American political thinkers have not often produced works that rank with the best that has been thought or known in the world's intellectual history. The scholar in the European field can hedge the question of relevance by arguing that the *Republic* is worth reading and pondering for its own sake, and that it is no more necessary to seek some utilitarian justification for doing so than it is necessary to justify reading *Othello*. Or he may, even better, insist that Plato is both relevant to an understanding of ancient and modern politics *and* intrinsically self-warranting; and he may thus rest his case with two feet firmly planted. Such a course of argument is not really open to the student of American political thinking. He must stand on the leg of relevance if he is to stand at all.

The implied depreciation of American political thought may seem a little strong, but it is actually no more than an extension of the commonplace that we have not as a people been much given to philosophizing about government. We have talked about it a great deal; we have even, in a certain sense, done a lot of thinking about it. But it has not been characteristic of Americans to concern themselves with the stratosphere of political speculation, and the result among others is that our soil has bred no Hobbes, no Locke, no Marx, no Rousseau. The *Federalist* has been much praised both at home and abroad, and it is surely a wise book; but can it really be arrayed with the great political literature of the western world? If so, it is strange that the secondary work concerned with it has been so scanty, that no book *about* the *Federalist* has, as far as I know, been published. Jefferson is surely the patron saint of the American political tradition; we start from Jefferson as the medievals started from Aristotle. But sage and eloquent though he often was, Jefferson could hardly be called a great political philosopher. It is no accident that he never wrote a systematic book about his political ideas (the *Notes on Virginia* certainly cannot so qualify) and that the valiant attempt by Wiltse to piece together a philosophy of government from Jefferson's scattered writings, is unsatisfying.[1] Calhoun has been rediscovered in comparatively recent times and decked out in a philosopher's regalia, but the fit is not a very happy one at best. Lay his *Disquisition* beside any of the indubitably great works of western political thought, and its glitter fades at once.

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* This paper in a slightly different form was first presented at a conference under the auspices of the Department of Political Science, Northwestern University.

It is probably considerations like these that help explain the inchoate quality of American political thought when it is viewed as a branch of the political scientist's discipline. Good books have been written in the area, but many are weakened by the paradox that they attempt to deal with political philosophy in a field where there are no political philosophers. They endeavor to transmute able statesmen and learned judges into something else; they try to focus the lenses appropriate to the study of European political theory on a subject whose dimensions are quite different. The result is not only to distort the subject, but in a way to trivialize it. If we approach Jefferson with the same frame of reference we apply to Rousseau, we are missing the point of both Jefferson in particular and American political thought in general. Moreover, we are inviting an unmerited disparagement of Jefferson and his importance. We are encouraging the judgment, common enough among students of European theory, that American political thought is a "peripheral" subject.

This pronouncement is surely in error. But it is equally certain that the dilemma just stated is real. We cannot argue that the justification for studying American political thought is self-evident, like the truths in the Declaration of Independence. If the conventionally convenient man from Mars were in search of examples of human thought at its most profound, one could hardly recommend that he spend as much time on Hamilton and Madison as he spent on Plato and Hegel. One would certainly not send him to Andrew Jackson instead of Cicero, unless indeed there were reasons for persuading him that humanity's political thinking remained on a surprisingly rudimentary level even after some 3,000 years of recorded practice.

But if he wanted to understand the government of the United States as it has been and is, that might be quite another matter. For these men and others like them made the American government both with their thoughts and with their hands. Hamilton not only laid down a conceptual base for American nationalism in such papers as his opinion on the Bank of the United States; he deftly maneuvered in the battleground of practical politics to make that conception a reality. Madison not only propounded a theory of American political behavior in the famous tenth Federalist Paper; he played a crucial role in setting a pattern for the way the domestic political animal does behave. Jackson not only gave voice to the dreams and prejudices of a burgeoning democratic movement; he also gave the movement shrewd and skillful political leadership. Profound philosophers they were not; but they were something perhaps equally vital—they were architects of American political institutions and of the American political mind.

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[1] C. M. Wiltse, *The Jeffersonian Tradition in American Democracy* (Chapel Hill, 1935).

However, the significance of such men does not arise wholly from this creative part they played in history. They also performed an important "reflective" function. Thus they provide us with a double clue to the comprehension of American political mores, since they mirrored the thought of the nation as much as they helped to shape it. And they reflected the mind of America all the more faithfully precisely because they were not giants of western intellectual history, because they did not stand too far above the level of their times. Franklin, John Adams, Jefferson, Madison, Marshall, Jackson, Calhoun, Lincoln, Theodore Roosevelt, Woodrow Wilson—these were all extraordinary men by any standard, but no one of them was exceptional in such a way as to be out of touch with the American grain. All shared to a considerable extent the prevailing ideas and prejudices that could be found as common coin among their less articulate countrymen. They were leaders and writers, but they were also reasonable facsimiles of the American political man.

Some of them, of course, fill this bill more neatly than others. Jefferson, for all his brilliant versatility, in spite of his certified membership card in the heavenly city of the *philosophes*, was so American that a catalog of his qualities is itself a political history of the nation. Even his ambiguity and inconsistency, so troublesome to his greatest admirers, were archetypal; for the nation, like Jefferson, has never quite been able to make up its mind about the major problems of political philosophy. Hamilton and Calhoun were somewhat more special perhaps, but neither was really esoteric; and they both represented important elements in the stream of national political doctrine. As for Roosevelt and Wilson—the strenuous colonel and the astringent professor—they were, each in his own way, as indigenous as a revival meeting.

I would not be understood as suggesting that we can learn about a nation only from those who approximate its norm. Henry Adams was a *rara avis* in the American scene; so was Veblen; so was Irving Babbit. Yet their insights have helped us to comprehend ourselves. Indeed it is probably safe to say that no one has contributed as much to our political self-knowledge as two foreign observers, Tocqueville and Lord Bryce. Moreover, it is of course true that a full understanding of America must involve an understanding of the rest of the world as well. "What should they know of England who only England know?" Kipling once asked; and the query is no less pertinent when applied to America.

But I do argue that our more conventional thinkers can lead us to a level of understanding about our political character that no other source could duplicate, partly as has been said because they helped create that character and partly because they reflected it in their own words and deeds. It would be a great mistake to imagine that a grasp of Louis Armstrong is equivalent to a full understanding of American music, but it would be similar nonsense to believe that he and others like him could be left out of account or to deny that they had something unique to tell us. Milton teaches us something about America that cannot be found in Mark Twain; but it is also true that *Huckleberry Finn* catches an essence that we would seek in vain in the pages of *Paradise Lost.*

All this may smack of turning a necessity into a virtue. The student of American political thought is confronted with the obstinate fact that its spokesmen are not immortal philosophers. He is therefore thrust into a position which requires him to discover in these spokesmen some significance beyond themselves, some relevance to another range of inquiry. And he finds by a happy coincidence that their very inadequacy as philosophers is a left-handed attribute, that although they can teach him less about absolute truth, they can teach him more about America. Specifically, they can lead him towards an understanding of the operative political mind of America and of the governmental institutions which that mind has created.

The answer is that seeming faults do sometimes turn out, upon examination, to be virtues and that it is the part of wisdom to assay every vein of ore most carefully before abandoning it as unpromising. Yet it is not enough to say what has so far been said. One may feel that it is important to uncover the operative ideals of American politics and that the words of the nation's statesmen will furnish an important guide-post to that objective. One may also feel that these operative ideals, once understood, will augment our perception of how America is governed. But nothing is more familiar and more dissatisfying in the social studies than the vague feeling that there is a relationship between two sets of facts if we could only recognize the bridge that connects them. We are sometimes told, for example, that the insights of modern psychology can greatly enlighten the field of political science, and this may be quite true. But the excursions across the lines of these two disciplines have not yet, so far as I can see, irradiated much except the obvious; and even those who take a more generous view of the matter will probably agree that the map of the route is still somewhat primitive.

The point is not to belittle cross-disciplinary ventures as such but to emphasize the fact that such projects are not self-executing. It is not enough to suggest that there may be a road from Ghent to Aix; the road must be found before the good news can be delivered. To revert to the matter in hand, the student of American political thought needs not only a belief in its relevance to practical politics; he needs a method, an approach, which will help him to establish what the relevancies are. And surely this sought-for approach must disclose something more subtle than the obvious cause-effect relationships of intellectual history. A Madison composes the Virginia Resolutions; his composition gives comfort in the future to the proponents of both nullification and secession. There is patently a connection here, and it is important to know about it; but this is only the surface layer of analysis, the starting-point rather than the conclusion of the inquiry. Does the fact that Madison, who wrote the Virginia Resolutions, also helped author the *Federalist* tell us anything about the nature of American political opinion? Do the Virginia Resolutions and their reception help explain the general American attitude towards national-state relations? Can we integrate the Resolutions, not only with the Civil War, but with the phenomenon of modern federalism? If so, the study of them has a plain bearing of the problems of modern politics. If not, their significance remains largely antiquarian.

I

The approach to the subject here proposed is doubtless only one of several modes of entry, yet it is one that seems most likely to develop the potential relevancies of the material, to narrow the gap between the "political scientist" strictly so-called and the student of political ideas. Compendiously stated, the suggestion is that the study of American political thought will be more meaningful if rooted in the study of existent American political institutions, that such a blending of ideas and practice will bring us closer to an understanding of both. Daniel Boorstin, with a somewhat different objective in mind, comes very near to what is here when he speaks of bringing to the surface the ideas about democracy which are "latent" in the institutions by which we have actually lived.[2] Inherent in these institutions, he argues, we can see the operative political ideas that make up the American political ethos. The present suggestion, to go a step farther, is that the idea thus delineated will in turn help to clarify the nature of the institutions, and that the study of American political thought can thereby become an important step in the process of political analysis.

Now of course there is nothing either startling or original in the bald recommendation that institutions and theory should be studied concurrently, and indeed the pious hope that they will be lies behind almost every Ph.D. curriculum in political science. If the approach here advocated is to carry a little beyond that, the notion should be spelled out a little more particularly and its implications examined with some care.

In the first place, the proposal conceals a premise—that American political institutions do, in a general way, reflect the American political mind, that we can come close to discovering the consensus of the American community by pondering her governmental forms. Of course, in a broad sense this is true of any free nation, almost by definition; institutions seldom if ever spring full-panoplied from the head of some master legislator, and we can always learn something about a people from the way they are governed. But the correspondence between political arrangements and national presuppositions is especially striking in America. If we attempted to find the dominant political concepts of Germany embodied in her political institutions, for example, we might be puzzled by the discrepancies between the Weimar Republic and the Nazi dictatorship, even though we were at the same time enlightened by certain threads of consistency that might be observed. But America, as Boorstin has also perceived, is a horse of another color. It is, paradoxically in the light of its literally true?

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[2] *The Genius of American Politics* (Chicago, 1953), p. 169.

supposed revolutionary origins, one of the most "Burkean" of nations. At least since 1789, its major institutions of government have undergone no sudden or radical changes, but rather have adapted gradually to new circumstances and new attitudes as the occasions required. The presidency, the Congress, the Supreme Court, the party system, the pattern of national-state relationships have all been altered by time in varying degrees; but the shifts have been evolutionary, not abrupt. Even the Civil War, which seemed to tear the nation apart, worked surprisingly little instant transfiguration of America's basic political forms. In most ways the modification produced was less startling than that produced in English politics by the passage of the Reform Bill; and it cannot be remotely compared to the cataclysmic upheavals that history recognizes as truly revolutionary.

was gradual

It must be emphasized, moreover, that these gradual developments in American politics have been the product of organic growth and not deliberate contrivance. Again the results of the Civil War are in point. Some of those who framed the "war amendments" to the Constitution undoubtedly hoped that with one stroke they would destroy the old system of intergovernmental relations and substitute a new doctrine of national supervision. But the failure of that ambition is notorious, and it was ultimately not the Joint Committee on Reconstruction but history that determined how the nation and the states would live together. Similarly, the development of the presidency since its low point of prestige under Johnson has been not a purposeful advance but a series of *ad hoc* adjustments to circumstances as they arose. In short, our political institutions, like many other features of our nation, have been shaped in that "pragmatic" spirit which has so often been described as characteristically American. And exactly because we have been a pragmatic people, because our political alterations have been piecemeal and contingent, it is reasonable to argue that the institutions so produced bear a close correspondence to the actual American mind. Had we been a more philosophical nation, had it been in our nature to commit ourselves to abstract principles, the result might have been quite different. For principles often have a self-propelling quality. They generate, so to speak, a mind of their own. In America, unburdened by such semi-independent variables, it has been possible for political forms to fit themselves more faithfully to the contours of national opinion.

In the second place, the approach here advocated does imply on the other hand that political ideas have institutional consequences, that what Americans have thought about politics has played a significant part in determining what politics would be. The questions that might be begged by this assumption are too many and complex to be argued in detail in a paper of this kind. But it should be pointed out that the contention, taken in the broad sense, requires no very great act of faith on the part of the reader. That ideas on some level help account for the nature and composition of such an institution as the American Congress would seem a truism beyond serious dispute. Whether those ideas are the mere reflex of interest calculations; which of them, if any, have the tensile strength to persist in the face of adversity; whether they are explicitly or tacitly held; whether they are shared generally or cherished only by an influential minority—these are problems whose answers might be found at the end of the suggested inquiry, rather than at its beginning. For the present it is only necessary to assert that our institutions have in some way been moulded by the ideas we have had.

In the third place, it should be observed that the argument so far advanced does not preclude the idea that institutions have a certain persistence value, that once established they tend to survive, enjoying a degree of autonomous existence in spite of shifting currents of opinion. This familiar truth is, however, in the nature of a signpost, warning the student to be alert against the error of mistaking yesterday's mind for today's. It does not vitiate the assertion that operative ideals shaped our institutions in their inception and are continually reshaping them as the course of history proceeds. Only the most sterile analysis could rest content with the notion that the institution of judicial review, for example, is accounted for by the circumstances of its origination in a horse-and-buggy age and its perpetuation through inertia ever since. If the Supreme Court had not reflected a vital and continuing element in American thought, it could not have survived the vicissitudes of the Marshall period, much less the Dred Scott decision, the self-inflicted wounds of the 1895 term, and the agonizing re-appraisal of the New Deal era. Whether judicial review as we know it today is the creation of ourselves or our fathers is another matter; but it is surely not wholly the creation of our remote ancestors. Its own corporate will-to-survive has helped to preserve the Court; but it has also been protected and nurtured by the climate of American opinion.

Finally, it must be understood that while this approach is asserted to be broadly and generally valid, no more than that is claimed. The idea is not that going institutions always and exactly and automatically reflect the mind of America, either past or present, but that they can provide an extremely important clue to a comprehension of that mind. A multitude of scholarly problems involving discriminating judgments will still remain. Room must be made in any analysis for anomalies and anachronisms. Some institutions—the "no establishment of religion clause" of the First Amendment before 1947 might be a fair example—can hardly tell us much about modern American thought for the sufficient reason that almost no one has, for a long time, done any thinking about them. Each purported relationship between institution and idea must be evaluated with care before it can be regarded as established. Neither is it suggested that the true relationship is always, or even often, the obvious one. A naive application of this approach might, for instance, lead to the conclusion that Americans in general are passionately devoted to bicameralism as a political idea, because of the prevalence of two-house legislatures in the United States. A more searching inquiry might reveal that bicameralism is merely the fortuitous expression of a vaguer and deeper political premise—perhaps the idea that two cooks make better broth than one; perhaps the idea that both geography and numbers deserve representation; perhaps the simple but by no means insignificant idea that traditional forms are best in the absence of overwhelming evidence to the contrary. In short, the proposal to unite the study of American theory and the study of American institutions probably raises as many questions as it answers; but it may at least insure that the questions asked are pertinent and real.

Among several possible objections to this approach two may warrant special attention. For one thing, it might be asked why it is worthwhile to study individual thinkers at all. That is, if the political mind of America is latent in its institutions, why not focus on the institutions, draw the appropriate inferences from them, and leave Jefferson, Hamilton, and Company to those who are concerned with intellectual history *per se?* The answer is that individual thinkers may articulate the latent prejudices and ideas that govern American politics, thus helping to give them form and making them easier for the student to identify. The historian of the future, for example, may well be grateful to a modern Secretary of Defense for some off-hand remarks he made in the 1954 campaign about various kinds of dogs. Without his statement a scholar in the year 2000 might imagine that American political thought in the 1950's was quite devoid of the "rugged individualist" bias that so captivated the nation in earlier days, that both parties and all shades of opinion were united in their admiration for the workingman in the service state.

Or, to take a somewhat more serious example, Lincoln's expressed opinion that it was more important to save the Union than to free the slaves or punish the South confirms the belief that a moderate pro-Unionist sentiment underlay the extremism of conflicting factions in the Civil War and helps explain the *modus vivendi* that was worked out when Reconstruction Era fevers had cooled. Without an understanding of men like Lincoln and Alexander Stephens an observer might gain the impression that the nation's conflicts were utterly irreconcilable, and the famous "deal" of 1876 would seem incredible. Again, Jackson's veto message on the Bank Renewal Bill helps explain that curious blend of mistrust towards great wealth and tolerance of its inevitability that is documented in the American regulatory system. The paradoxes of that system are no doubt implicit in its structure, but knowledge of Jackson's attitude towards capitalism is an aid in recognizing and understanding them.

Another question is whether the suggested approach involves ignoring or rejecting ethical considerations as an aspect of political theory. Does it presuppose that whatever is is right, by postulating a sort of American general will which ratifies and thus justifies all existing institutional arrangements? The question is not entirely rhetorical. If it is assumed that the American mind has created American governmental forms, then it might seem to follow that those forms were best calculated to express what the American people needed and desired. A suggestion to change them might appear both futile and undemocratic.

But of course it is always open to argue that the popular will has erred, even when it has spoken unmistakably. Moreover, there is plenty of room for hoping that cogent argument can succeed in working changes both in the American mind and in American institutions by stimulating the revaluation of ill-considered convictions. My contention is that American political institutions are shaped by the American mind, not that the mind itself is a changeless entity. New circumstances may require new applications of old premises or alteration of the premises themselves.

It would be hard to argue, for example, that American opinion has yet worked out a viable attitude towards political interest groups and that the modern "polity of pressure groups," as Lippmann has called our contemporary institutional setup, reflects exactly what America wants. The truth may well be that America does not yet know what it wants in the area of group political representation, and much ink might be usefully spilled in realistic public analysis of the problem. In this, as in a multitude of other fields, the American political mind is in flux, and the question of "ought" may be just as important as the question of "is." On the other hand, the realization that political institutions do bear an organic relationship to American thought may help to guarantee that prescriptions for change strike somewhere near the boundaries of feasibility. It will serve to remind us that there is a "given" ideological factor which must be taken into account and that problems in political science are not analogous to problems in engineering. Some of the proposals for constitutional reform that sprinkled the literature of the field a few years ago might have been more helpful, if less spectacular, had they recognized the necessity of coping with the rooted political convictions of the nation.

This brings us back, almost squarely, to the point at which this paper began. Suppose, for the sake of argument, that all the propositions thus far set forth are acceptable. Concede that American political thinkers have not been great philosophers, but that they have performed both a creative and a reflective function in the history of American politics. Concede that American political institutions have been formed by what has been loosely called the American political mind and that the lineaments of that mind can thus be traced through the study of institutions. Concede that it does therefore make sense to approach the field of American political thought in these terms—to seek out, as Boorstin puts it, the ideas latent in the institutions. How, it may still be asked, does this answer the question of relevancy as it was originally propounded? What are the implications of the approach, not only for the better understanding of American thought, but for the better understanding of empirical institutions? Can the insights thus in prospect help us to comprehend and even predict the course of contemporary political behavior? Is the method which is valuable to the intellectual historian also of use to the political scientist?

The reply to these questions is already fairly plain. The study proposed, if successful, should enrich political analysis by widening its horizons and giving them a clearer contour. The more deeply we comprehend the forces that shape our institutions, the better we should be equipped to describe their present nature and forecast their future development. Take a currently familiar example. Much of the criticism of President Eisenhower during his first years in office centered around the charge that he failed to provide strong executive leadership, and especially that he did not attempt to dominate and direct Congress. With the merits of this criticism we are not here concerned, and it may or may not be true that the President's assumption of a comparatively passive role cost America a heavy price. But what does seem true is that the indictment is almost worthless as a political lever for his opponents. There is good reason to believe that a study of the presidency as an institution would reveal a strong popular conviction that the president *should* don just such a robe of grandfatherly benignity under conditions like those Mr. Eisenhower faced. If so, those who tried to unseat him should have looked for other tools. Whether this judgment is right or wrong, the illustration does indicate the importance of knowing what Americans in general, rather than the Committee on Administrative Management, have thought the presidency should be. Such knowledge is a matter of direct and practical political significance.

Yet—the question naturally presents itself—is not the task here described already performed for political science with full adequacy? Is it not proposed to substitute a conjectural and intuitive method for evaluating the public mind in place of the highly developed and relatively precise techniques of opinion analysis that have been evolved in recent years? The answer is that no pretence is made to usurp the role of opinion measurement, which will of course continue to provide the political scientist with irreplaceable data. But the suggested approach can supply important corroborative and supplemental insights and thus enlarge the range of political understanding. Polling methods cannot by their very nature tell us much about what Americans *have* thought, *i.e.* they cannot often separate the traditional from the transitory in American opinion. And it may be very important to identify our ideologic constancies if we are to estimate the intensity of public convictions. Moreover, polling always faces the difficulty that it is asking men to analyze their own attitudes and to predict their own course of conduct. It is a commonplace that there may be a great difference between how and why men think they will behave and how and why they actually do behave. Thus the inquiry here suggested may tell us something about the "real will' of America which is only partially discoverable by other means.

II

The variety and scope of the analytic possibilities inherent in this approach to the study of American political thought are nearly endless, and it could serve no very useful purpose to list them. However, it may be worthwhile to attempt a couple of experimental forays into the field in order to see how the method might be handled and to show what sort of light it can shed on the problems of political action. These ventures must of course be suggestive rather than definitive, so as to avoid extending unduly the confines of this paper, but they may illustrate better than abstract exposition can the nature of the proposal.

Let us consider, for a start, the concept of due procedure in American constitutional law; or more specifically the "due process" clauses of the Federal

Constitution. What can the contemplation of this institutional phenomenon tell us about the attributes of the American mind, about the latent premises of American political theory? To recapitulate here the long and familiar "due process" chapter in American history is unnecessary, but certain features of the tale deserve to be underlined. For one thing, it is noteworthy that this most effective and far-reaching substantive check on governmental power yet devised in our legal system entered the Constitution through a door marked "procedure" and that a certain confusion as to whether it was concerned with substantive or procedural liberty has persisted from first to last. Indeed a careful examination of legal decisions in the heyday of the due process clause suggests that what later students have called "substantive due process" was in the minds of the judges more like a widened concept of procedure. Surely they almost never admitted frankly that they were weighing the objectives of governmental policy rather than the manner of its accomplishment, and they tirelessly probed challenged legislation to discover elements which would smack of procedural irregularity.

Another point worth observing is that when the Supreme Court was finally persuaded in the 1930's to abandon due process as a substantive limit on economic legislation, it nevertheless still continued to maintain procedural guaranties in the economic field and so maintains them to this day. Still a third significant fact is that modern American legislation aimed at restricting substantive liberty is often filled with so many procedural safeguards as to raise a serious question that the laws can accomplish their repressive purpose. A prime example is the Internal Security Act of 1950, the so-called McCarran Act, which in spite of its authors' indubitable hostility towards communism and related menaces, reads like a parody of the law's delays. And finally there is the circumstance that the Court's recent doctrinal path in connection with that same problem of internal subversion has been distinguished by a uniform acquiescence to governmental power where substantive freedom was concerned but by a tendency to hold the line more firmly when procedural rights were in question. One of the latest manifestations of this judicial viewpoint is to be found in Mr. Justice Frankfurter's majority opinion in *Galvan v. Press* which holds that the substantive power of Congress to deal with aliens is virtually unlimited, although in enforcing the law "the Executive Branch of the Government must respect the procedural safeguards of due process."[3] Indeed, the opinions of this Justice constitute in themselves an impressive documentation of the point here being made, for they disclose a pervasive concern for procedural niceties coupled with broad tolerance of substantive inhibitions on freedom.

The foregoing generalizations warrant a tentative judgment or two about the nature of the political mind that gave this institution its being.

They suggest, for one thing that the American concern for procedural rights runs more deeply and steadily than the concern for substantive liberty. Indeed, so far as it goes the evidence implies that freedom in the obvious sense of liberty

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[3] 347 U.S. 522, 531 (1954).

[illegible]

to think and speak and act unhindered holds no very favored place in the American hierarchy of political values. Naturally, Americans, like everyone else, are in favor of such liberty for themselves (*e.g.* the corner grocer is opposed to price control for corner grocers) and even for others if there are no important chips on the table. But when the stakes become fairly high—in times of stress—we seem remarkably quick to master our quenchless thirst for liberty. On the other hand, we tend to cling to the concept of procedural regularity a good deal more obstinately.

This is not for a moment to intimate that there is something trivial or ignoble in the American preoccupation with process as contrasted with substance. As Mr Justice Jackson has said:[4]

> Only the untaught layman or the charlatan lawyer can answer that procedures matter not. Procedural fairness and regularity are of the indispensable essence of liberty. Severe substantive laws can be endured if they are fairly and impartially applied. Indeed, if put to the choice, one might well prefer to live under Soviet substantive law applied in good faith by our common-law procedures than under our substantive law enforced by Soviet procedural practices.

Pier v. w/ Truman?

At its best due procedure is synonymous with the bright ideal of fair play, and it lies very close to the heart of the rule of law. But it is important to note what procedural fastidiousness is not as well as what it is. It is not a manifestation of the kind of spirit that makes revolutions or libertarian crusades. It is the attribute of an essentially conservative, order-loving character. The procedural-minded individual is likely to be drawn to the usual, the respectable, the orthodox in human behavior; and to be repelled by the eccentric, the fervent, the extreme.

Now if this is, as I believe, a reasonably accurate estimate of one aspect of American political belief, what practical conclusions might it lead to? Possible inferences crowd to mind at once. Might it not be surmised, for example, that those who would check the repressive tendencies which have been popularly called "McCarthyist" are more likely to succeed if they focus on guarding procedural rights than if they rest their case on the pure ground of freedom of opinion? The observation was commonly heard during his heyday that it was not the objectives of the Wisconsin Senator, but his methods, that deserved censure, and one suspects that this judgment, infuriating though it might be to some, largely accounts for the lapse in his fortunes. A related point has to do with the predictable behavior of the American judiciary and the public reaction to that behavior. Can we not hazard the guess that our courts will in times of stress bow to the legislature on substantive issues but maintain their supervisory activities to the procedural field, and that this discrimination between two kinds of rights will be supported by public opinion?

A fuller comprehension of the American obsession with procedure might also be useful to those who are interested in the problem of administrative action and judicial review. A few years ago there was much enthusiasm for the project of minimizing judicial control of administration, and its advocates often appeared both surprised and aggrieved that the tradition of court supervision was so tenacious. Its tenacity can be partly explained by the procedural bias that has been noted here, and both labor and disappointment might have been spared if policy formulators had realized how deeply rooted this bias is in the American political temperament. Rightly or wrongly, Americans tend to think of courts as the symbols of procedural fairness, and any proposal to define administrative-judicial relationships must reckon with this conviction.

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[4] Shaughnessy v. United States, 345 U.S. 206, 224 (1953).

The same conviction helps account for the first serious political setback of Franklin Roosevelt's presidency, and again it can be argued that the contretemps might have been foreseen and forestalled if those responsible had seriously considered the implications of American legal history. The court-packing plan of 1937 seemed to be based on the assumption that the doctrine of judicial control was an illogical carry-over from a simpler age and that the Supreme Court's conflict with the indisputably popular New Deal had destroyed its prestige in the eyes of the nation. The outcome of the controversy demonstrated, however, that American attachment to the institution was more fundamental than many had suspected; and it may be suggested that this was due in no small part to the general feeling that the court is the champion of orderly procedure in a chaotic world. Here was an instance when knowledge of the premises of American political thought might have been a matter of immediate practical relevance.

III

Another American institution which could be profitably considered in these terms is federalism, a particularly appropriate choice, first, because it represents perhaps the most ambiguous of American political ideas; and, second, because it provides us with a good example of how the study of individual political thinkers can aid the understanding of a contemporary political form. One of the most impressive facts about this institution in America is its incoherence. Any attempt to describe in general terms the pattern of national-state relations is foredoomed to collapse in the face of stubborn contradictions. Not even the modest generalization that nationally significant functions are assigned to national control can survive examination of the practical reality. American federalism is a patchwork in which logic and uniformity seem to be largely ignored, a complex of *ad hoc* relationships replete with apparent inconsistencies.

This is also a fair enough description of federalism when we view it historically. In spite of his temperamental devotion to the nationalist principle, John Marshall bequeathed a commerce clause doctrine whose essence seemed to be that some matters should be handled by the nation and some by the states, an unexceptionable but not very enlightening conclusion. The Court under Taney made some effort to clarify this ambiguity, but the tortuous history of the so-called "Cooley Rule" suggests that it accomplished little more than to substitute one equivocation for another. Meanwhile the enigmatic character of federalism in legal terms was matched by federalism in practice. The national government sometimes assumed certain functions, but at the same time analogous matters were left undisturbed in the hands of the states. Even more baffling to the logician, the very functions undertaken by the nation were often handled by the states *concurrently* and without much discernible concern on either side for drawing a palpable line of distinction. The result was a vast confusion, but it was also—and the point is important—a *modus operandi*.

The ideological assumptions that can be inferred from this perplexing network of relationships are themselves inevitably ambiguous, but they are no less instructive for that. The evidence suggests that the American attitude towards federalism consists of the rather vague and certainly nondogmatic idea that it is best to maintain a fair balance between central and local authorities and that this balance is a value in its own right. However, the evidence also seems to imply that this value, though real, is far from absolute, and that it is traversed and modified by the concomitant notion that the distribution of powers is a practical arrangement for getting things done. That these two premises are ultimately contradictory has never seemed to disturb Americans unduly, and it should not greatly disturb us. In fact it is just in connection with this point that the study of individual thinkers becomes illuminating. Writing at the time of the Civil War, Lord Acton observed that the American federal system was not founded on principles but on "momentary suspensions of war between opposite principles, neither of which could prevail."[5] It followed, he thought, that the development of the nation would deepen tensions and that the resulting conflicts would unavoidably destroy the Union. What he failed to reckon with was the American capacity to assimilate inconsistencies and live with them.

This capacity was never more admirably illustrated than in the career and thought of Thomas Jefferson, whose attitude towards federalism goes far to explain the attitude characteristic of his countrymen. The circumstances of political life in his times made it inevitable that most of his pronouncements on the issue would have a states' rights flavor. But his actions when president, as for example in connection with the Louisiana Purchase and Embargo, frequently seemed to contravene these stated principles and certainly revealed that his devotion to them was by no means doctrinaire. The disaffection of "pure Republicans" like Randolph and John Taylor was summarized by Randolph's charge that the president simply spelled Federalist backwards; to such men Jefferson's ambivalence looked like hypocrisy.

The truth was that for Jefferson the states' rights ideal enjoyed that equivocal status in which most Americans seem to have held it throughout our history; for him, as for Americans generally, it was a contingent and tentative doctrine which could be readily modified by practical considerations. But the important point is that these modifications did not mean that the doctrine itself was abandoned, as strict logic might appear to require. After his nationalist apostasies while president, Jefferson could with perfect equanimity retire to

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[5] *Essays on Freedom and Power* (Boston, 1948), p. 199.

Monticello and from that vantage point proceed to hurl thunderbolts against the minions of nationalism. By the same token Americans in the 150 years that followed were able to support accretions of national power on pragmatic grounds while continuing to cherish the concept of federal balance. The practical result has been a national government whose powers are reasonably commensurate with its tasks, but whose assertions of power have had to overcome a presumption against them. Acknowledging exceptions, this seems to have proved a pretty effective way to cope with the problems of a federal republic.

Of the numerous practical inferences that might be drawn from this institutional and ideological material, it is perhaps especially worth dwelling on one or two which have to do with America's participation in world affairs. The story of American federalism gives us a basis for suggesting, for example, that perfervid statements about the sacred principle of sovereignty need not be taken over-seriously in themselves, so long as they are not backed by a well-grounded appeal to concrete interests. A closely related point is that we should be especially careful in this field of mistaking what Americans say for what they do. It was neither Hamilton nor John Taylor of Caroline but Jefferson who became the American President and whose ambiguous federalism was stamped with the approval of his generation.

It follows that those who seek to bring about America's participation in projects for international control and even world government would be well-advised to settle for a vague commitment at the outset and to trust history to define the reality. It seems very unlikely indeed that the American Constitution would have been ratified if it had been clear that the national government enjoyed the powers claimed for it by Marshall in *McCulloch v. Maryland*. Yet that decision came only thirty years after ratification, and in spite of the furor from Virginia and neighboring points it was soon the law of the land. A nation which can thus pragmatically drift towards centralism may similarly drift towards world government. But it would be a serious error to try at first to impose a rigidly logical formula upon a nation whose very life principle has been ambiguity.

The foregoing paragraphs are meant only to illustrate in a tentative way the kind of insights that might be discoverable through the approach to American political thought that has been proposed. The study of that thought, as was said earlier, must find its major justification in relevancy. An approach which takes its starting point in living political institutions may help insure that that objective will never be lost to view.

COMMENT ON McCLOSKEY

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McCloskey's essay offers a justification for and an approach to the study of American political thought. Justification is needed, as he puts it bluntly and persuasively, because American political thought is second-rate. His proposed approach to its study constitutes a solution to the problem posed by that second-rateness. That is, he offers not just one possible valuable way to consider American political thought but, rather, the way which justifies the study.

The justification for studying second-rate thought, he tells us, cannot be the same as that for first-rate political thought. To use his example, the study of Plato can be defended on the ground that it is somehow "intrinsically self-warranting." He distinguishes another major justification for the study of first-rate thought, namely, its relevance to the understanding of politics, that is, presumably, to the understanding of politics regardless of time or place. But the study of American political thought, because it is second-rate, cannot be justified on the first ground; the student of American political thought "must stand on the leg of relevance if he is to stand at all."

But just what is his view of the relevance of the study of American political thought to the understanding of politics? The study of our best political thinkers is relevant, not to the understanding of politics as such, but to understanding "the government of the United States as it has been and is." "They can teach . . . [us] more about America" than can even the first-rate political thinkers. This might at first seem to mean that although American thinkers have been inferior in wisdom to first-rate thinkers (who like Plato can teach us about political matters generally), they can instruct us particularly about American politics, with which they were so directly concerned. However, I am not sure McCloskey is at all interested in the wisdom, second-rate or not, of our thinkers.

He conceives of American politics and institutions as being strikingly the product of "the American political mind." While there is some correspondence between the politics of any nation and its national mind, this correspondence is especially close in America. The relevance of the study of American political thought to the study of politics, for him, is achieved *via* that American political mind. Our political thinkers helped create and, especially, mirrored the American political mind; that mind decisively produces and informs our institutions; therefore, the study of American political thought will yield valuable information for the study of American political institutions. McCloskey's suggestion, then, is to focus the study of American political thought on what it can tell us about the American political mind; he proposes to read our thinkers for "an understanding of the operative political mind of America and of the governmental institutions which that mind has created."

With that end in view we must pay special attention to the way he finds our best political thinkers to be a source of information about the American political mind. He tells us that their significance does not arise wholly from the

> creative part they played in history. They also performed an important "reflective" function. Thus they provide us with a double clue to the comprehension of American political mores, since they mirrored the thought of the nation as much as they helped to shape it.

It would seem important to treat our best thinkers differently with regard to their creative and mirroring functions. For while any given thinker may well have been both creator and mirror, those parts of our political mind which he really created he could not also have mirrored. But, McCloskey does not preserve this distinction as important; indeed his suggestions have the tendency to obliterate it. It is a crucial distinction, especially worth maintaining by students of political thought, for it is, I think, related to the distinction between thought worthy of the name and thought not worthy of the name.

In any event, McCloskey proposes to use our best thinkers either as creator or mirror to the same end—for what they reveal of the content of our national mind. That is, in so far as they are creators we should search for what they put into the mind; and we should examine them as mirrors to find in them the image of the national mind (*i.e.*, for what the national mind put into them). In either capacity, our thinkers are to be used as a glass in which to see brightly the American political mind. I suggest it is more likely, on the contrary, that the American political mind is as a glass in which can be seen only darkly the thoughts of our best political thinkers. I think McCloskey's approach, partly because he fails to treat seriously the difference between creating and mirroring, would finally mean a blurring of the radical distinction between what was in the minds of our best thinkers and what is in the national mind, or between uncommon and common thoughts.

Whether they created or mirrored the national mind, the crucial thing for McCloskey is the close correspondence between our best political thought and the American political mind. That is what solves the problem of the second-rateness of American political thought; that is what gives it its relevance and makes it worthy of study. While first rate thought achieves timeless relevance to the understanding of politics by virtue of the elevation of its thought, McCloskey sees American political thought achieving relevance in a very different way, by virtue of its proximity to common opinion. Standing not too high, our political thinkers "shared to a considerable extent the prevailing ideas and prejudices that could be found as common coin among their less articulate countrymen." Our thinkers were "reasonable facsimiles of the American political man." Again, when explaining why individual thinkers should be studied at all, he says, "the answer is that individual thinkers may articulate the latent prejudices and ideas that govern American politics, thus helping to give them form and making them easier . . . to identify." Finally, consider the value he finds in Jefferson. Jefferson is "archetypal," a veritable "catalog" of the national history. Jefferson becomes, as it were, a perfect one-man sample of our enduring public opinion. Articulation of latent prejudice or articulation of what is enduringly common to the American mind would seem, according to McCloskey's proposal, to be the chief if not the only important claim our best political thinkers can make upon our attention.

McCloskey says that our great political thinkers can "teach" us about America. Indeed they can. But I have tried to show that in effect he proposes to use them not as teachers at all but rather as data. They teach us, in his approach, the same kinds of things about our past development as the results of public opinion polls "teach" us currently. He converts them from thinkers into respondents. Their opinions are not treated as wisdom concerning political things, American in particular, but as data regarding the American mind, albeit superior data because they express our "ideologic constancies." McCloskey's defense of the study of American political thought, I believe, has the tendency to convert it into the study of American political ideology or articulated-and-enduring-common-opinion, *i.e.*, to make second-rate thinkers over into first-rate spokesmen.

I suggest instead that it is peculiarly the task of the student of American political thought to concentrate upon those elements which are not merely the common stock of the American mind; which, if not "stratospheric" and while rooted in American things, nonetheless approximate to the " 'best men have ever thought'." While this seems to me especially appropriate when we are concerned with, say, Hamilton and Madison as thinkers, let me show first that my suggestion has a bearing also upon the way the same men should be studied when we approach them in their capacity as makers of events.

In studying the politics of any country we are obliged to read what the powerful political leaders said and to examine what they did; the more influential the man the closer the study of him. How could we not study Bismarck, Gladstone, or Clemenceau, when studying the politics of their respective countries? We would read them to find out what they were trying to get done. But admittedly we would not study them primarily as part of German, English, or French political thought for the simple reason that they are not among the best political thinkers of those countries. Yet, although we would not expect ordinarily to learn chiefly from *them* the truth or merit of the opinions they held, it would be very important to consider the wisdom of what they were trying to get done, as well as how much of it they themselves understood. But this we would have to do in each case by ourselves, presumably with the aid of really first-rate political thought regardless of its time or place of national origin. The study of political matters properly points always to the highest thought about political matters; this is in some degree the case with the study of important political leaders everywhere. But it is especially the case with those American leaders who were also among our best political thinkers; the fascination in the case of America is the fact that some of our most important political leaders also thought very deeply indeed about what they were trying to get done. Even if we wanted to read them only as important political leaders—for what we can learn about how they influenced our politics—very soon we should be drawn by them to the area within which, more than most political leaders, they operated, namely, to the first-rate thought about political problems which they had studied and upon which their inventions and practical applications rested. Is it not their connection with great thought that makes them great, and not merely powerful, statesmen? And unless we studied them, even primarily as political leaders, in the light of their highest thought, how would we be able to appreciate what happened to their aims and principles in the course of American history? How should we know whether the original principles have not been perverted or diluted in the course of time?

This point about how to study American statesmanship applies all the more strongly when we consider the problem McCloskey raises, about how to study American political thought. While I am not sure that he would wholly agree, I would say that second-rate political thought (or theory or philosophy, to use the terms interchangeably as he does) differs from first-rate thought in that the latter is free or more free of opinions which are merely the common property of the national mind or of ordinary men. That is to say, first-rate political thought has better opinions (*e.g.*, about "diagnosing and prescribing") than have average men.[1] In reading any thought or philosophy we are obliged to discover for ourselves whether what is presented is "surer knowledge" or is only the "common coin" of a particular realm. Indeed it is only in this way that we can distinguish between first-rate and second-rate political thought. But second-rateness, I agree with McCloskey, is characteristic of our political thinkers. So I should say that in order literally to see the subject matter of American political thought we are required to compare second-rate American political thought with really first-rate thought. What students of American political thought must study and know, if they are to understand it, is wherein it is or approaches to great thought and wherein it falls short and why. Thus the study of American political thought should be rooted, like the study of any political thought, in the context of political thought as such and not in "existent American institutions." The true "range of inquiry" beyond themselves to which American political thinkers lead is first-rate philosophy whatever its source.

But then, from my point of view, why study American political thought as thought at all? Why not start directly with first-rate philosophy? One answer is that on the whole it seems natural to begin with what is one's own. Second-raters the American thinkers may be but at least they are *our* second-raters. To begin with them is a kind of self discovery. Moreover, although they are lesser men by comparison with the giants of western civilization, there is good reason to believe that they were men of broader horizon and deeper understanding than we are today. They were to some substantial degree our founders and fashioners; they helped mold our national "mind" and our governmental system. Precisely because of their political success, we may tend to take for granted (or worse, ignore) their reasoning and the system they fashioned for us. Our "mind," I suggest, may be only a badly blurred version of their thinking. Our thinkers should be used, not as a mirror of our political mind, but as a source for a critical commentary upon it.

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[1] There is, of course, a modern position which denies that there can be really superior opinions about what men ought to do politically. In that view, all speculation about the right political order—no matter how elegant, systematic, dispassionate—is a rationalization of purely idiosyncratic, and thus arbitrary, preference. From this denial, of course, it would easily follow that American political thought should be studied as American ideology or as only an expression of the American political mind. But I take it McCloskey does not base his thinking dirctly on that modern position and thus I do not feel obliged to challenge it explicitly here.

Consider what McCloskey finds in the "operative political mind" of America. We have an "obsession" for procedural rights, which inclines us to be hostile to the "eccentric, the fervent, the extreme"; we have an "attachment" to the Supreme Court; we have a "curious blend of mistrust towards great wealth and tolerance of its inevitability"; and "ambiguity" is our "life principle." Whatever may be the accuracy of these descriptions of typical American attitudes (some are, I think, open to doubt), the crucial thing about our best political thinkers is that these attitudes and "attachments" are in their writings the subject of penetrating and genuinely instructive thought. The truth or merit of these typical opinions was discussed and understood by them on a very high level of thought. The fascinating relationship between American political thought and American politics is that from the former we learn what was intended and hoped for the latter; and from a study of the politics we may be helped to judge the wisdom of the intention and hopes of American political thought. American political thought, unless bowdlerized, is a very bad mirror of the national "mind." Better for that purpose are the familiar data of newspapers, diaries and letters, slogans, advertising, popular art forms, the speeches of typical politicians (not just the best statesmen), etc.

But what the best American political thought can do for us, better than anything else can, is to tell us what were the profound aims and justifications of American life, of which the national "mind" is and can be only a vague or vulgar echo. The proper relationship between the study of American political thought and American politics, I suggest, is a confrontation of the ideas " 'latent in our institutions' " and in our popular thought with those (and other) ideas explicated, applied and defended as true in our thinkers, or in the thinkers upon whom they relied. I welcome McCloskey's effort to bring really pertinent questions to the study of modern American politics and I think he is right to seek them in American political thought. He points us to a valuable corrective for what sometimes seems like a tendency to a new formalism, that generalizing study of institutions which does not take its bearings from the irreducibly discrete purposes which animate them. But I dispute what seems to me to be his emphasis on reading our thinkers for what they had in common with us. I suggest we read them for what is uncommon in them, that is, as philosophy, or in the light of philosophy; so that our study of them may help us to stand in the same relation to the national "mind" that they did—as fashioners with a broader horizon and deeper understanding than the thing fashioned.

ADMINISTRATIVE LITERATURE AND THE SECOND HOOVER COMMISSION REPORTS

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The appearance of the second Hoover Commission reports is an invitation to attempt to place them in the context of official and unofficial efforts over the past quarter century to give order and meaning to the study of public administration and of its leading example, our national administration. The object here is more than bibliographical, and if it seems ambitious it can hardly be more so than the Commission's own work. No previous study has been so amply financed, or has employed so many people, or has enjoyed such official and public relations support, in and out of government, as this one. What do the reports have to contribute, to knowledge and to policy about organization?

I. VIEWS OF ADMINISTRATIVE REALITY

The literature of political science on administrative organization and reorganization is in a curious state.[1] There exists on the one hand a substantial literature that identifies certain characteristics of an ideal administrative structure, such as hierarchical lines of authority, a unified, pyramidal executive branch, and due attention to such considerations as span of control, number of hierarchical levels, departmentalization by major purpose, delegation of authority, and distinction among staff, line, and auxiliary activities. The best statement of these characteristics remains the 1937 "Notes on a Theory of Organization" prepared by Luther Gulick for his and L. Urwick's jointly edited volume, *Papers on the Science of Administration* (Chicago, 1937). For the most part this ideal structure continues to command the respect of all official commissions and committees that have made major investigations of the administrative reorganization needs of national, state, and municipal governments. The *Report* (Washington, 1937) of the President's Committee on Administrative Management and *General Management of the Executive Branch* (Washington, 1949), the initial report of the first Hoover Commission on Organization of the Executive Branch of the Government, are written in terms of this structure. The Council of State Governments' *Reorganizing State Government* (Chicago, 1950) surveys the work of the "Little Hoover Commissions"; and a sample of some of the thinking about the administrative structure in large cities is afforded by the report of the New York City Mayor's Committee on Management Survey, *Modern Management for the City of New York* (New York, 1953) and the related report of the Temporary State Commission to Study the Organizational Structure of the Government of the City of New York, *Four Steps to Better Government of New York City* (two parts, 1953, 1954).[2]

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[1] The principal reviews of recent trends in the literature of public administration are the following. George A. Graham, "Trends in Teaching of Public Administration," *Public Administration Review*, Vol. 10, pp. 69–77 (Spring 1950); John M. Gaus, "Trends in the Theory of Public Administration," *Public Administration Review*, Vol. 10, pp. 161–168; (Summer 1950); Charles S. Ascher, "Trends of a Decade in Administrative Practices," *Public Administration Review*, Vol. 10, pp. 229–235 (Autumn 1950); Wallace S. Sayre, "Trends of a Decade in Administrative Values," *Public Administration Review*, Vol. 11, pp. 1–9 (Winter 1951); Marver H. Bernstein, "Research in Public Administration in the United States," in *Contemporary Political Science* (Paris, 1950: UNESCO Publication No. 426), pp. 430–445; Roscoe C. Martin, "Political Science and Public Administration," in this REVIEW, Vol. 46, pp. 660–676 (Sept. 1952); Dwight Waldo, "Administrative Theory in the United States. A Survey and Prospect," *Political Studies*, Vol. 2, pp. 70–86 (Feb. 1954); his *The Study of Public Administration* (New York, 1955), and his *Political Science in the United States* (Paris, 1956. UNESCO); Herbert A. Simon, "Recent Advances in Organization Theory," in *Research Frontiers in Politics and Government* (Washington, 1955) pp. 23–44; Frederick C. Mosher, "Research in Public Administration. Some Notes and Suggestions," *Public Administration Review*, Vol. 16 pp. 169–178 (Summer 1956).

This is not to say that all these official investigations have made identical recommendations (though in the 1920's and 1930's state legislators occasionally complained that the reports they paid for were virtually carbon copies of those prepared for neighboring states by the same consultants), nor that they have never strayed from the doctrinal position. But when they strayed they usually knew they were doing so, and they tended to treat such departures as regrettable, though necessary to meet a "unique" situation. This official literature cannot be dismissed as remote from the literature of political science. Political scientists were prominent members of the staffs (and sometimes of the commissions themselves) in a sufficient number of cases that their contributions to the reports can not be thought of as made under duress.[3]

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[2] In June 1955, reporting at the same time that the second Hoover Commission completed its work, the Commission on Intergovernmental Relations, headed by Meyer Kestnbaum, declared, "There is a growing knowledge and understanding of the means available to strengthen State and local governments" (*Report*, p. 37), and "While there is no unanimous agreement on a precise pattern of administrative organization applicable to all States, there is substantial agreement on certain arrangements which, if generally applied, would greatly strengthen State administration." (p. 45). It went on to cite an itemization of "strengthening the office of the governor; reducing the independent agencies and administrative boards and commissions and grouping them into major departments; extending the gubernatorial power over appointment and removal of department heads; and strengthening executive controls over budgeting, accounting, purchasing, state property, etc." See also the American Assembly, *The Forty-eight States: Their Tasks as Policy Makers and Administrators* (New York, 1955).

[3] In the President's Committee on Administrative Management, which reported in 1937, Chairman Louis Brownlow had as colleagues Luther Gulick and Charles E. Merriam, and the research staff (listed at p. viii of the Committee's *Report with Special Studies*) consisted almost entirely of political scientists. In the first Commission on Organization of the Executive Branch of the Government, Chairman Herbert Hoover had as a colleague James K. Pollock, and political scientists, though by no means a major part of the assisting personnel, were often to be found in strategic places; the full list of 29 assisting political scientists is given in this Review, Vol. 43, p. 352 (April 1949). The details on the Little Hoover Commissions of the States are presumably not available in one place, but the Connecticut Commission on State Government Organization had the services of at least 18 political scientists. Local studies not infrequently are performed by consulting organiza-

On the other hand, political scientists have developed a severely critical literature that either rejects the whole set of concepts incorporated in this ideal administrative structure or asks pointedly what evidence there is to support the indicated characteristics. Illustrative are Francis W. Coker's early questioning of the doctrine as applied to Ohio government in the 1920's, Charles S. Hyneman's agnostic concern over the developing "theology" of organization in the 1930's, and Earl H. Latham's and Herbert A. Simon's revival of the theme in the 1940's.[4] These pleaders for evidence in support of the propositions about "sound" administrative structure may by their very gift for vigorous language have given readers the impression that they were denying the propositions instead of merely asking whether they were correct.

The literature is richer and more confused than this basic dichotomy suggests. The themes are many. Administration, it is said, is basically a decision-making process and the task of organization is to make this process as rational as possible—for example, by getting people to operate on their proper level and by bringing to focus at the decision-making point the information and points of view that have relevance. It is an easy step from this to see administration as a problem in communication, and organization as a communications network. Perhaps, though, what one needs to know is how human beings behave in administration, and this leads one to the immediate environment for most individuals, the "primary group"; that is, the small work group or social group of which individuals are parts. The executive branch and each of its major agencies may be thought of as an assemblage of primary groups. A step further, and it becomes apparent that primary groups are not always assembled or internally structured in formally prescribed ways. Informal organization, com-

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tions whose staffs either include no political scientists or include some men with political science training who have chosen careers in the applied management field rather than in scholarship and teaching. However, recent studies of New York City government have drawn on the services of such men as Luther Gulick, Herbert Kaufman, John D. Millett, and Wallace S. Sayre.

Of course, individual staff members must not be assumed to support all the conclusions reached by the commissions that employ them, and some staff members may disagree with the central propositions that the commissions endorse.

[4] Francis W. Coker, "Dogmas of Administrative Reform," in this REVIEW, Vol. 16, pp. 399–411 (Aug. 1922); Charles S. Hyneman, "Administrative Reorganization: An Adventure into Science and Theology," *Journal of Politics*, Vol. 1, pp. 62–75 (Feb. 1939); Earl H. Latham, "Hierarchy and Hieratics," first published in *Employment Forum*, Vol. 2, pp. 1–6 (April 1947), but more conveniently available to political scientists in Dwight Waldo (ed.), *Ideas and Issues in Public Administration* (New York, 1953), pp. 105–114; Herbert A. Simon, "Proverbs of Administration," *Public Administration Review*, Vol. 6, pp. 53–67 (Winter 1946), which appears substantially without change as "Some Problems of Administrative Theory" in his *Administrative Behavior* (New York, 1947), pp. 20–44. In his doctoral dissertation, Lawrence J. R. Herson returns to the scene of one of the most famous efforts to develop and apply "principles" of administrative organization, and subjects it to a skeptical retrospective appraisal: "Administrative Reorganization and the 1917 Reform in Illinois: A Study in Scientific Demonstration" (Ms. dissertation, Yale University, 1955).

munication grapevines, the role of influence, and the importance of access are revealed. A tendency to over-react against the formal structural emphasis of traditional doctrine leads occasionally to a virtual rejection of a prescribed structure of authority on the ground that it is either a false statement of reality or a foolish procrustean effort to shape reality simply through an act of will.

Allied with this effort to disclose the real mainsprings of administrative behavior is the view that perhaps administration should be thought of as bargaining and negotiation among primary groups, among the larger aggregates such as bureaus and departments, and between superiors and subordinates. Insofar as this turns into a playing of games for keeps, it is likely to introduce an element different from those so far considered: administration's relation to the non-administrative constituency that it serves. One view of American society emphasizes its fragmentation into groups, and it is not unreasonable to conclude that a social institution such as government may be expected to reflect the society of which it is a product and servant. Administrative organization, therefore, will inevitably be pluralistic. This will mean not only that a formally integrated administrative structure is an unrealistic goal, but that one must expect and be undisturbed by alliances among autonomous administrative agencies, autonomous Congressional committees, and the interest groups whose areas of interest coincide with those of the agencies and committees. So the game for keeps that is administration may in fact involve many non-administrative players.

This view of an administration that mirrors a pluralistic society is not the only way of explaining interagency conflict and the drive for agency autonomy. Underlying both phenomena may be specifically administrative motivations, such as concern for agency survival and enhancement of agency prestige. Indeed, much of administration may be intelligible only if we think of bureaucracy as itself a special culture. Concern for status and for the symbols of status, an excessive elaboration of procedural niceties, an unimaginative approach to novel problems may all be accompaniments of large-scale administration. To budge this sluggish mass may be a frustrating undertaking for top political officials. It may also be argued that the body of bureaucrats, far from merely reflecting the society that it serves, is itself a power monolith alongside the other large power aggregates of America and has considerable independent power to bargain with these other aggregates and settle the terms on which social life will be carried on.

One is likely by this point to begin worrying about how to introduce democratic values into a bureaucracy that in ideal design does not differ from a bureaucracy meant to serve an absolute ruler. Some of the literature of political science, consequently, argues for greater Congressional surveillance of administration and, in fact, rejects the concept of the Executive Branch as a unified pyramid headed by the elected chief executive. This argument can be found in Charles S. Hyneman, *Bureaucracy in a Democracy* (New York, 1950). Another product of concern over the dangers of bureaucratic patterns of behavior is the emphasis upon maintaining the vigor of external controls by the courts and upon the shaping of administrative decision-making processes so that they approximate the model of judicial decision-making. Democratization within administration has also been sought through interest representation on advisory or determinative committees and boards, through referenda and polls, and through decentralization of decision-making either to field agents closely in touch with local opinion or to "volunteer" local boards. John D. Lewis' "Some New Forms of Democratic Participation in American Government," in *The Study of Comparative Government* (New York, 1949), and John M. Gaus' "Public Participation in Federal Programs," in *Democracy in Federal Administration* (Washington: U. S. Department of Agriculture, 1955) review this effort to democratize administration.[5]

II. APPROACHES TO THE ANALYSIS OF ADMINISTRATIVE COMPLEXITY

The diversity of views about administrative reality yields several possible conclusions about how political scientists might discharge their responsibilities in the field of public administration. Let it be granted that to raze the simplified conceptual structures erected by one's predecessors is not only a frolic for the young in spirit, but also a necessary step toward the discovery of truths that have eluded scholars in the past. But the ground was cleared as long ago as World War II, when a whole generation of political scientists serving in military and civilian administrative capacities acquired a degree of sophistication about administration that exceeded what was communicated in the prewar literature.[6] One can not now make a useful career of harassing the ghosts of Wilson, Goodnow, and Willoughby.

The swing away from the simple, overly mechanical view of administration has had such momentum as to carry some to an equally dangerous conclusion. The administrative world, it can easily be believed, is so complex, the variables to be taken into account so numerous, and each administrative situation so nearly unique that we must despair of saying anything meaningful about this world. This defeatist counsel can hardly be congenial to social scientists who, by their very choice of profession, are committed to persistent effort to unravel the tangled skein of social relations.

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[5] Stemming from this same concern are a number of other speculations—e.g. expansion of political staffing of the bureaucracy, assurance of a "representative bureaucracy" through broadening the range of recruitment particularly by social and economic classes, exclusion of potential abusers of bureaucratic power such as individuals committed to subversion. Out of this same ground springs an awareness that "democratic values" may qualify the possibility of achievement of a "science" of public administration. See Robert A. Dahl, "The Science of Public Administration: Three Problems," *Public Administration Review*, Vol. 7, pp. 1–11 (Winter 1947), and Herbert A. Simon, "A Comment on 'The Science of Public Administration,'" *Public Administration Review*, Vol. 7 pp. 200–203 (Summer 1947); Dwight Waldo, "Development of Theory and Democratic Administration," this REVIEW, Vol 46, pp. 81–103 (March 1952), and replies and comments by Herbert A. Simon, Peter F. Drucker, and Mr. Waldo in this REVIEW, Vol. 46, pp. 494–503 (June 1952).

[6] Illustrative is Fritz Morstein Marx (ed.), *Elements of Public Administration* (New York, 1946), to which 14 political scientists with Washington wartime experience contributed. At about the same time, Paul H. Appleby's *Big Democracy* (New York, 1945) struck a responsive chord by its effective linkage of general statements with the realities of administrative life.

We should assume that the destructive impulses are already satisfied and the challenge to rebuild inescapable. Even so, it is possible to contend that students of public administration as such have little to contribute to the task of reconstruction. One may say with considerable persuasiveness that all the *important* problems of administration are really problems of politics. Administration, the argument goes, gets its real shape from the actions on it by legislative bodies and committees and individual legislators, by agency heads vying for political preferment, by interest groups infiltrating, capturing, sabotaging administrative agencies. To put it simply, the administrative problems that matter are not problems of administration proper. And the administrative problems that don't matter don't matter. These, the managerial and procedural problems that can be largely isolated from political factors, are not appropriate concerns of political scientists.

There are, besides, at least three non-political-science claimants to the empty shell of administration that would be left by a driving out of the traditionalists and a futile know-nothingism on the part of the anti-traditionalists. One approach is to say that all administration depends on program content, which for the most part can be thought of as economic and social policy. One can not talk sensibly about administrative organization for the regulation and promotion of transportation without a thorough understanding of the problems confronting rail, bus, truck, private automobile, air, pipeline, and water transportation. One cannot organize a war production agency without a prior understandstanding of the problems of priority ratings, allocations, requirements and supply estimating, production curtailment, and the complex interrelations among the principal raw materials, end-product components, and completed end products important to military operations and the supporting domestic economy. The point is not simply that the problems of organization for transportation or war production or agriculture or tax collection differ to such a degree that some adaptation of administrative concepts is necessary as one moves from one program category to another. Nor is it only a matter of morale: *e.g.*, that physicians and surgeons working in a hospital will be unhappy unless the hospital chief is also an M.D., or that professors in a university will be discontented if the president is not a Ph.D. The point is rather that administrative organization is wholly a derivative of the program goal and the intricacies of the program area. The skill required, then, is a mastery of the program area, a more than superficial understanding of whatever socio-economic structure and process the administrative structure and process must interlock with. On this premise the analysis of administrative organization should be left to such persons as industrial specialists and labor and agricultural economists.

A second approach is that of the behavioral sciences. The opportunities and conditions for illumination of administrative problems by the behavioral sciences have been judiciously appraised by David B. Truman in *Research Frontiers in Politics and Government* (Washington, 1955). The microcosmic phase of this approach is illustrated by the interest in disclosing the motivational pattern of the individual worker in an organization. The range of interpretation may reach from the impact of childhood experiences in the family on behavior in maturity to the responses expectable from such stimuli as wage increases and promotions, authoritarian orders, exhortation and consultation by superiors, actual participation in the making of decisions, and improvements in physical conditions of work. The interrelations among the individuals in a face-to-face group,[7] their mutual stimulation, attraction, repulsion, and the effects of all this upon the group's cooperativeness with the work program of the whole organization of which the group is a modest part, have all been explored. This microcosmic phase, a product particularly of social psychology, is complemented by a macrocosmic phase that is rather in the Weberian tradition and is the concern principally of sociologists. Bureaucracy and "the bureaucrats" are distinguished from other social institutions and large social groups and their characteristic modes of operation and behavior are identified.[8]

A third approach is that of business administration, industrial administration, or, more generically, "large-scale administration." As Dwight Waldo has pointed out in *The Administrative State* (New York, 1948), both the high status of business success as an important aspect of the American ethos and the circumstance that "scientific management" developed first in a business setting under the impetus of Frederick W. Taylor have led to a continuing theme that public administration has much to learn from business administration. The argument has increased in sophistication and plausibility with the emphasis upon large-scale administration as a genus with at least four elements that are common to public and private administration—bureaucracy, the rivalry of ambitious men, the basic cell of the primary group, and problems of process (*e.g.*, job classification, routing of paperwork, accounting).

It is possible that the study of public administration need not be surrendered to the specialists in politics, to economists and other program-conscious specialists outside political science, to the psychologists and sociologists, or to those knowledgeable in business administration. None of these appears to have the sole key to the understanding of public administration. Each seems driven so to merge public administration with other concerns that those characteristics that are peculiar to public administration must be ignored—with what cost to fully rounded truth one may well inquire.

The student of public administration, then, is confronted by the many-faceted reality that is public administration; he is caught between the over-assurance of the earlier faith in unproved principles and the futility of mere agnosticism; and he is conscious of the interrelations with politics, economics, individual and group behavior, and institutional administration in general. His only course, short of abdication of responsibility, is to assume complexity, to "be with caution bold," and to adapt whatever other disciplines may have to contribute to the understanding of his subject. This resolution of some of the difficulties already outlined does not meet a difficulty so far not explicitly stated: scholarly method.

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[7] Edward A. Shils has discriminatingly reviewed the small-group literature in "The Study of the Primary Group" in Daniel Lerner and Harold D. Lasswell (eds.), *The Policy Sciences* (Stanford, 1951), pp. 44–69; for a broader treatment of the area referred to in the text, see J. A. C. Brown, *The Social Psychology of Industry*, published in the Penguin paperback series (Harmondsworth, Middlesex, 1954).

[8] Robert K. Merton, et al. (eds.), *Reader in Bureaucracy* (Glencoe, Illinois, 1952).

Developments within political science, the increased attention to what is happening in other social sciences, and, always, a respect for the natural and physical sciences have imposed new and rigorous methodological conditions on the building of generalizations from administrative data.[9] Without reviewing those conditions in detail, we may speculate that at any given time the status of our administrative theory is somewhat as follows. First, there are an appallingly small number of verified generalizations that apply to a sufficient number of likely occurrences to have quantitative significance, and that also concern relatively important, rather than trivial, questions so that they have qualitative significance. Second, there is a set of currently accepted propositions that have not been empirically verified according to the strict standards of scientific method, but on which there is such consensus among thoughtful students as to make them guides to art, *i.e.*, premises or myths that men act by. These, because of the importance of the questions to which they are addressed and because of their wide currency, might appropriately constitute the preferred agenda of hypotheses for scientific study in the future.[10] Third, there is a set of confused and contradictory suggestions, and as well a number of vacuums in the literature; together their effect is the same: to leave the administrator without aid from the scholar. This third situation may well arise where administrative problems are so novel that argument by analogy has even more than its usual hazards, or where the questions presented are very high in "value" content, or where the problems are so complex in the sense of a multiplicity of variables that they exceed the scholar's present competence.

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[9] The dividing line seems to be not between "scientific" and "unscientific" approaches to the analysis of political and administrative phenomena, but between such terms as scientific attitude, approach, spirit, and even method on the one side, and *rigorous* scientific method on the other. Presumably no scholar chooses to be unrigorous any more than he chooses to be unscientific. The term "rigorous," however, has acquired a special meaning with the curious result that it calls upon empiricists to so reduce, isolate, manipulate, and measure variables that the artificial situation of the laboratory comes to be treated as more real than the complex, multi-variable situation of real-life administration. Some of the most useful comments on this range of problems will be found in Dwight Waldo, *Political Science in the United States of America* (Paris, 1956; UNESCO), pp. 18–36; *Research Frontiers in Politics and Government* (Washington, 1955); and a number of the writings of Herbert A. Simon, including his "What Is an Administrative Science" in his *Administrative Behavior* (New York, 1947), pp. 248–253, and articles cited above in footnote 5.

[10] The capacity of our tools for "rigorous scientific study" may not extend to such an agenda. If this should prove true, then the rigorously scientific school may duplicate the earlier sin of public administration research—parodied as the "counting of manhole covers." I am trying to say in the text that it would be an error to say that there are only two kinds of study: the rigorously scientific study of the unimportant and the "anything goes" value-impregnated study of the important. The second category identified in the text seems to me both inevitable and serviceable.

To increase the first category and to decrease the second and third are objectives on which most students of the subject may be expected to agree. But they will disagree on the rate at which these shifts can occur and they will differ on what the ultimate distribution of organization questions among the three categories is likely to be. Now and for several decades at least, much of the contribution of political science will lie in the second category. Here, in the realm of what might be thought of as "prevailing hypotheses," we are dependent upon the skillful analysis, reflective judgment, and critical acumen of such contributors to the literature as Paul H. Appleby, John M. Gaus, Luther H. Gulick, Arthur W. Macmahon, and Leonard D. White[10a]—who are mentioned simply to characterize a type to whose many exemplars most of us are in deep debt for insightful speculation about the world of administrative reality. That they may contradict each other or, over time, themselves is perfectly true. This process of critical reexamination of findings, reformulation, and then questioning of the reformulations is part of the commitment to the scientific effort that animates the approach to this second category of attempts to understand public administration.

III. THE SECOND HOOVER COMMISSION: MEASURES OF ACHIEVEMENT

While political scientists are fretting themselves over the complexity of administrative reality, the distribution of scholarly responsibilities for precipitating truth from the complexity, and the degree of methodological refinement possible, men less cowed by these difficulties are proceeding to study and reshape the formal structure of the administration. The most notable recent undertaking of this type is the 1953–55 work of the second Hoover Commission on Organization of the Executive Branch of the Government. The details of its recommendations aside, the Commission's view of administrative reality and its methodology for arriving at findings and recommendations may be assumed to have significance for political science.

The 1955 *Reports* of the Commission are a weighty addition to the American literature on administrative organization and management. The task force and research staff reports are said to contain 3,300,000 words, and the Commission's own reports to contain 600,000 words. Together, these reports, it is said, "rest on the greatest mass of facts on Government ever gathered at one effort in our history."[11] Many people worked on the reports. The Commission of 12 men was assisted by 513 persons at the peak of employment. These people produced 314 recommendations, covering 19 areas of governmental operation. The Commission spent $2,850,000, which works out at about $150,000 per area and $9,000 per recommendation.[12]

[10a] The political scientists named, it should be noted, are not closet philosophers, but men with experience as public administrators or consultants and with a background of direct observation of the phenomena which they seek to order for purposes of analysis.

[11] Neil MacNeil and Harold W. Metz, *The Hoover Report, 1953–1955* (New York, 1956), p. 310. The estimates of words are from Herbert Hoover's introduction, p. v.

Quantity of words, people, recommendations, and money is not the only measure of accomplishment. Quality counts too. Writers who, Mr. Hoover attests, "know more about the work of the Commission than any other mortal," have said that the Commission reports and task force reports "represent, in fact, the most thorough and objective examination of the workings of our Federal system since the founding of the Republic." The same writers explain the important fact-finding achievement:

> In almost infinite detail these studies present a documented picture of a sprawling and voracious bureaucracy, of monumental waste, excesses and extravagances, of red tape, confusion, and disheartening frustrations, of loose management, regulatory irresponsibilities, and colossal largesse to special segments of the public, of enormous incompetence in foreign economic operations, and of huge appropriations frequently spent for purposes never intended by the Congress.[13]

This, we are assured, is not the fault of particular individuals in the Government; it is the system that is bad.[14]

A qualitative evaluation of the Commission's achievement must, of course, go beyond the thoroughness and objectivity of its studies and the evil that it uncovered. One must consider the value of its recommendations. Here it is difficult not to transmute quality into quantity. The Commission itself was cautious about the number of dollars that would be saved by adoption of its recommendations. It tabulated the estimates of some of its task forces without totaling them (though the eye could imagine a total of about $8 billion), and noted that there was some overlap, that some task forces had made no estimates, and that the Commission had failed to adopt some of the recommendations of its task forces. Allowing for these qualifications, the Commission said, "there are enough possible savings left to enable the balancing of the budget and reduction of taxes."[15] Mr. Hoover has indicated that the budget balancing would take place if $3.5 billion were saved and that "a couple of billion dollars in tax reduction would be well received." This, which seems to be a personal estimate of roughly $5.5 billion "is certainly far within the limit of the savings that are recommended in these reports."[16]

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[12] U. S. Commission on Organization of the Executive Branch of the Government, *Final Report* (Washington, June 1955), pp. 23, 7–9. The calculation of averages is somewhat misleading, as the studies varied considerably in cost. Commissioner Hollifield reports that the study of water resources and power by the task force cost $430,000. See his dissent in U. S. Commission . . . , *Water Resources and Power* (Washington, June 1955), vol. II, p. 10.

[13] Neil MacNeil and Harold W. Metz, *op. cit.*, p. 299. The authors were members of the central staff of the Commission, Mr. MacNeil as Editorial Director, and Mr. Metz as Director of Research.

[14] *Ibid.*, pp. 299f. Mr. Hoover made the same distinction at a press conference on June 30, 1955.

[15] U. S. Commission . . . , *Final Report*, p. 20.

[16] "Interview with Herbert Hoover: Government is Too Big," *U. S. News and World Report*, Aug. 5, 1955, pp. 48–52 *et seq.*, at p. 50. James A. Farley, a member of the Com-

IV. THE COMMISSION'S RANGE OF OPPORTUNITY

The achievement in finding ways of so substantially improving American government is all the more remarkable because the Commission was not working in virgin territory. As Herbert Emmerich has reviewed much of the background in his *Essays on Federal Reorganization* (University, Alabama, 1950), only a few reminders are needed here. Throughout most of the period since 1939 the President has had statutory authority to prepare reorganization plans that go into effect in the absence of formal veto action by Congress or one of its houses, and the authority has been used.[17] The concept of "continuous reorganization," central to that arrangement, has been reflected also in the administrative organization and management studies carried on by the Bureau of the Budget in the Executive Office of the President. The Bureau spent about \$3.3 million in all in the fiscal year 1954 (which roughly corresponds to the first year of the second Hoover Commission).[18] There also existed, from 1949 to 1953, the President's Advisory Committee on Management, composed largely of knowledgeable private citizens. Its *Report to the President* (Washington, December 1952) is a lucid and discriminating essay on the government's management problems.[19] Both the Bureau of the Budget and the Advisory Committee concerned themselves with intradepartmental administrative problems, as well as with the broader front of interdepartmental relations. This interest in departmental problems was principally given focus, however, by the first Hoover Commission's emphasis on the management responsibilities of each department head and on the desirability of providing in each department for an "assistant secretary for administration."

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mission, has said that "full adoption of the report would yield savings of over \$5 billion a year." Address on April 30, 1956, to annual meeting of Chamber of Commerce of the United States, reprinted in 84th Cong., 2nd Sess., *Congressional Record* (daily edition), May 7, 1956, p. A3590.

[17] The Reorganization Plans are printed in the *United States Statutes at Large* and in the *United States Code* (1952 ed.), Title 5, sec. 133, and its *Supplement II*. Thirty-seven Reorganization Plans went into effect between 1939 and 1952 inclusive. Of these, 28 fell in the 1949–52 period. As noted in the text, 10 more Plans went into effect in the first half of 1953. Under the Reorganization Act of 1949, a Presidential Reorganization Plan becomes effective if, within 60 days of its submission to Congress (during a period of continuous session), neither House votes to disapprove the Plan by the affirmative vote of a majority of its total membership.

[18] *The Budget of the United States Government for the Fiscal Year Ending June 30, 1956* (Washington, 1955), p. 51. Unfortunately, the presentation of Bureau estimates in the budget document does not permit a breakdown showing expenditures on organization and management activities. Percival F. Brundage, Director of the Bureau of the Budget, pleaded in 1956 for additional staff resources, particularly for the Bureau's management functions which have felt most acutely the "steady reduction in the staff of the Bureau for the past 7 or 8 years in the face of a very great increase in work." 84th Cong., 2nd Sess., *Congressional Record* (daily edition), May 7, 1956, pp. 6741–6744, and U. S. Bureau of the Budget, *Improvement of Financial Management in the Federal Government* (Washington, Oct. 1956), p. 28.

[19] The *Report* was republished in *Public Administration Review*, Vol. 13, pp. 38–49 (Winter 1953).

The work of the first Hoover Commission has been reviewed in this journal.[20] Consequently, our concern need be only with the fruitfulness of that work. Of the 273 recommendations that the first Commission submitted in 1949, it is said that 196 had been wholly or partially adopted by September 1953, when the second Hoover Commission was sworn in. The savings from this 72 per cent adoption have been estimated at $7 billion.[21]

It would not be surprising therefore if the second Commission had assumed that the Government was in reasonably good shape. But, as has already been indicated, it was to discover and reveal a shocking state of affairs and was to add about $5 billion in potential savings to the $7 billion of savings thought to have resulted from the first Hoover Commission's work.

The second Hoover Commission began and ended its work in the first Republican Administration in twenty years. The first term of President Eisenhower was over half spent when the Commission reported in 1955. During that period many signs warranted the expectation that administrative management was being strengthened well before the new Hoover Commission could arrive at recommendations. The President quickly established in his Executive Office the President's Advisory Committee on Government Organization "to advise the President, the Assistant to the President, and the Director of the Bureau of the Budget with respect to changes in the organization and activities of the Government which, in its opinion, would promote economy and efficiency in the operations of that branch."[22] Well before Inauguration Day, a study was undertaken for this Committee (presumably already projected) "in order to bring the Hoover Report up to date and prepare guidelines for continued reorganization in the new Administration." This was shortly published as *The Temple University Survey of Federal Reorganization* (two vols., Philadelphia, 1953). Ten reorganization plans were dispatched from the White House in the first half of 1953 and a Republican Congress permitted them to go into effect. Congress itself, quite apart from White House initiative, had the instruments for alerting itself to needed organizational changes and other administrative improvements. Subject-matter committees and the subcommittees of the Appropriations Committees, which traditionally evince an interest in administrative aspects of their assigned policy areas, were supplemented through the 1953–55 period by the Joint Committee on Reduction of Nonessential Federal Expenditures, still headed by Senator Byrd even though he was a registered Democrat;

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[20] Louis Koenig (ed.), "The Hoover Commission: A Symposium," in this REVIEW, Vol. 43 pp. 933–1000 (Oct. 1949); E. S. Redford, "The Value of the Hoover Commission Reports to the Educator," in this REVIEW, Vol. 44, pp. 283–298 (June 1950).

[21] Citizens Committee for the Hoover Report, *Status of the Hoover Report, 1949–1953* (Washington, Sept. 1953), vol. 2, p. 3. The estimate of savings is from James A. Farley, *op. cit.* Mr. Hoover has said that a reliable estimate of savings is impossible because of the heavy budgetary impact of the Korean and "cold" wars; in *U. S. News and World Report, loc. cit.*

[22] Executive Order No. 10132, January 27, 1953; reproduced in *United States Code* (1952 ed.), Title 5, sec. 133z. The members are, and were, Nelson A. Rockefeller, Milton S. Eisenhower, and Arthur S. Flemming.

the Senate Committee on Government Operations, headed successively by Senators McCarthy and McClelland; and the House Committee on Government Operations, headed by Congressmen Clare E. Hoffman and William L. Dawson. On the Administration's side, the appointment of businessmen as department secretaries, under secretaries, and assistant secretaries was widely expected to result not only in the new and critical look favored by any new administration, but also in a literally businesslike emphasis on efficient and economical ways of organizing and administering the Government's business. The President himself, with a long background as a military executive, could be regarded as a man more interested in and informed about administrative organization than most of his predecessors.

V. CONTRASTS BETWEEN FIRST AND SECOND HOOVER COMMISSIONS

Why, then, a second Hoover Commission on the heels of substantial achievement of the goals of the first? And why so black a picture of the quality of American government two-and-a-half years after the nation's conservative party had taken command? The explanations appear to be four: a sharp increase and redirection of government expenditures, the change in the political climate, a changed concept of the scope of concern appropriate to a commission on organization of the Executive Branch, and a changed membership.

Between the first Hoover Commission's report in 1949 and establishment of the second Hoover Commission had come the Korean War and a reassessment of the defensive power requirements of the "cold war." Budget expenditures had increased from $39.5 billion in the fiscal year 1949 to, as it turned out, $74.3 billion in fiscal 1953. Major national security expenditures had almost quadrupled, moving from $12.9 billion in fiscal 1949 to $50.4 billion in fiscal 1953.[23] These expenditures, which had been one-third of the total in 1949, were two-thirds of the total in 1953. The whole balance of the government's work had shifted. The major opportunities for governmental economy now lay in a single department, the Department of Defense.

The change in the political environment might be expected to assure a warm reception for a report stressing economy and efficiency. The first Hoover Commission had been created by the Republican 80th Congress and its task force studies and its own deliberations had probably taken into account the possibility, perhaps the probability, of a Republican victory in 1948. But it submitted its reports in February and March of 1949 to a Democratic Congress and depended on a Democratic President for much of the action on its recommendations. The second Hoover Commission, established by the Republican 83rd Congress in 1953, was able to report in 1955 under a Republican President. To be sure, there was once again a Democratic Congress. Even so, conditions were more favorable than those to be expected under a Democratic Administration in the tradition of the New Deal, Fair Deal, and Welfare State.

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[23] *The Budget of the United States Government for the Fiscal Year Ending June 30, 1957* (Washington, 1956), pp. 1164f. Federal civilian employment moved from 2.1 to 2.5 million between mid-1949 and mid-1953. U. S. Civil Service Commission, 66th and 70th *Annual Reports*.

The second Hoover Commission believed its assignment to be more inclusive than the first Commission's. The fact seems to be that the two Commissions differed in what they did, but not in what they were legally empowered to do. The 1947 and 1953 enabling acts[24] are closely similar in language. Congress in both years wanted "to promote economy, efficiency, and improved service in the transaction of the public business" and invited the Commission to recommend methods and procedures for "limiting" (1947) or "reducing" (1953) expenditures "to the lowest amount consistent with the efficient performance of essential services, activities, and functions," for "eliminating duplication and overlapping," for "consolidating . . . functions of a similar nature," and for "*abolishing services, activities, and functions not necessary to the efficient conduct of government*." The 1947 Act was sharper in calling for "defining and limiting executive functions," while the 1953 Act simply urged "defining responsibilities of officials." The 1953 Act added the new phrase, "*eliminating nonessential services, functions, and activities, which are competitive with private enterprise*." This new phrase would seem merely to particularize by example, and thereby sharpen, the invitation to recommend the abolition of unnecessary activities.

The first Commission, on October 20, 1947, adopted the position that it was "not confined to recommending management or structural changes which improve the efficiency of performance of the executive branch, but [was] clearly directed to explore the boundaries of government functions in the light of their cost, their usefulness, their limitations, and their curtailment or elimination."[25] However, in late 1948, some commissioners came to rue their October 1947 judgment. On November 11, 1948, which, as usual, fell after the first Tuesday after the first Monday in November, Chairman Hoover told a press conference, "Our job is to make every government activity that now exists work efficiently. I take it that major functions of the government are determinable as needed by the Congress. It is not our function to say whether it should exist or not, but it is our function to see if we cannot make it work better."[26]

The second Commission, working not only from the 1953 statute but as well from the reports of the Senate and House committees proposing the statute, concluded that it should return to the 1947 policy and examine and make recommendations on the substance of Federal programs and policies. Commissioner Holifield disagreed.[27] There seems to have been no statutory bar to the second Commission's choice of a broader scope for its inquiries. The first

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[24] The essential parts of the two statutes are quoted in U. S. Commission . . ., *General Management of the Executive Branch* (Washington, Feb. 1949), pp. viif, and *Final Report to the Congress* (Washington, June 1955), pp. 1–4. Italics added.

[25] Ferrel Heady, "The Operation of a Mixed Commission," in this REVIEW, Vol. 43, pp. 940–952 (Oct. 1949), at p. 942.

[26] Charles Aikin, "The Story of the Hoover Commission," in *California Monthly* (June 1949).

[27] Commissioner Holifield's argument is in the *Final Report to the Congress*, p. 28, and, more fully, in the report on *Water Resources and Power*, vol. 2, pp. 15–18.

Commission could have fished in the same troubled policy waters, but in the end prudently chose a more restricted role.

The second Commission distinguished its approach from its predecessor's in still another respect. The first Commission, its successor said, "concerned itself chiefly with reorganization of departments and agencies in their relations with each other," while the second Commission "dealt more extensively with the functional organization of the executive branch," examining "related functions straight across the executive branch (with one exception—the Department of Defense)."[28]

A final explanation of the differentiation of the second Commission and of the nature of its findings may be the altered membership. The first Commission was required to include six Democrats and six Republicans, and a third of the membership was appointed by a Democratic President. In authorizing the second Commission Congress deleted the requirement of bipartisanship, and all three appointing officers (President Eisenhower, Vice President Nixon, and Speaker Martin of the House of Representatives) happened to be Republicans. It is doubtful that these differences were significant. The Commission that resulted consisted of seven Republicans and five Democrats, but we are assured that this Commission, like the first, did not divide along partisan lines.[29] A more important distinction is that the Commissioners in 1953–55 were a group of men with a more preponderantly conservative cast of mind. Five alumni of the first Commission were appointed, as was the Executive Director of that Commission.[30] Among these "carry-overs" will not be found such frequent dissenters of the first Commission as Dean Acheson, James K. Pollock, and James Rowe. Representative Chet Holifield essayed to play the gadfly role, but he seldom found any fellow-commissioners eager to join him. Perhaps the best indication of a watershed dividing the commissioners was the provocative report on water resources and power. Here those to the "left" of the Commission majority proved to be Commissioners Holifield and James A. Farley, both Democrats, and Commissioners Herbert Brownell, Jr., and Arthur S. Flemming, the two Eisenhower Administration officials serving on the Commission.

VI. THE COMMISSION'S REPORTS AS ADMINISTRATIVE LITERATURE

The reports of the second Hoover Commission may be classified in three groups. A few reports focus on *government as government*. These deal with personnel and civil service, budget and accounting, legal services and procedures, research and development, and intelligence activities. Some look upon *government as business* and call for businesslike methods. These reports are on business organization of the Department of Defense, surplus property, real property management, transportation, depot utilization, food and clothing, and paperwork management. A third group of reports, while giving some attention to administrative aspects of the areas reviewed, put their principal emphasis on *government as policy*. The reports on business enterprises, water resources and power, overseas economic operations, Federal medical services, and lending agencies may be placed in this category.[31]

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[28] U. S. Commission . . . , *Final Report to the Congress*, p. 5.

[29] *Ibid.*, p. vi. *Cf.* "The value of the Commission is nullified if its scope of inquiry is not carefully defined and if the attribute of bipartisanship is absent." Commissioner Holifield, in *ibid.*, p. 27. For the first Commission, see Ferrel Heady, *op. cit.*, pp. 941 f.

[30] Members of the first Commission who served on the second were Representative Clarence J. Brown, Arthur S. Flemming, Herbert Hoover, Joseph P. Kennedy, and Senator John L. McClellan. Sidney A. Mitchell, banker and long-time personal friend of Hoover's, was executive director of the first Commission and a member of the second. The remaining members of the second Commission were Senator Styles Bridges, Herbert Brownell, Jr., James A. Farley, Senator Homer Ferguson, Representative Chet Holifield, Solomon C. Hollister, and Robert G. Storey. Senator Bridges succeeded Senator Ferguson as a Commission member in April 1955.

An appraisal of these reports as contributions to the literature of administrative organization and management is peculiarly difficult. One can make a number of descriptive statements, all true, but their cumulative effect is to reveal that a nicely discriminating appraisal is impossible. Such statements follow. The Commission provides no administrative model; the Brownlow Committee and the first Hoover Commission did provide such a model and one could decide whether he liked it or not. The vacuum is not adequately filled by the Commission's efforts to state its objectives. The principal explicit statement[32] provides a mixture of *goals* (national security, fundamental research, private enterprise, common welfare, and strengthening of "the economic, social, and governmental structure which has brought us, now for 166 years, constant blessings and progress") and *means* (efficiency, elimination of waste, elimination or reduction of Government competition with private enterprise), but the means are actually treated as ends valuable in themselves so long as they do not war against other ends ("The primary purpose . . . was to recommend methods by which savings could be made . . . without injury to the security or welfare of the country").[33]

The Commission devoted most of its attention to functions that cut across existing departments. It emphasized procedural techniques rather than major governmental purposes. A substantial amount of its work fell outside the area of interest and competence of political scientists and, one would think, below the level of competence and appropriate concern of a commission of distinguished citizens selected by the President, Vice President, and Speaker of the House of Representatives. These impressions are confirmed by the text of the reports. The choice of topics for study, presumably made very early in the Commission's life, and the selection of specialists to serve on the task forces foreordained that the Commission would urge greater uniformity and coordination of each across-the-board function. It was also predictable that this recommendation would be made without serious attention to what it might do to the hierarchical responsibilities of individual departments or the autonomy of independent regulatory commissions, both of which seemed important to the first Hoover Commission. It should not occasion surprise that a strengthened and more insistent General Services Administration would be one Commission proposal and that another would be establishment in the Department of Defense of a Defense Supply and Service Administration.

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[31] The classification is the writer's and presents the usual difficulties. Because this article does not deal with the important policy positions taken in the *government-as-policy* reports, the reader needs to be advised that a review of those positions would be essential to a rounded view of the Commission's work. The same advice applies with respect to the Task Force reports, none of which is dealt with here.

[32] U. S. Commission . . . , *Final Report to the Congress*, p. 22.

[33] *Ibid.*, p. 19.

The Commission did not keep the whole of the Government in view. Lacking such an overall perspective, it ignored important topics (*e.g.*, the organization of the President's staff system, the employee loyalty program) and plunged itself into findings and recommendations on the most astonishing details (*e.g.*, the air transport of ping pong balls to Berlin, the disparity in number of towels issued servicemen by the three armed services in the initial clothing allowance, the need for "a Master Menu Board, consisting of representatives of all the services").

The Commission seems quite confused about its role, the role of its task forces, and the relation between the two. In the overseas economic operations report, a *majority* of the commissioners joined in a "separate statement" urging substantial reductions in foreign aid expenditures. Oddly, this majority view could not get reflected in the body of the "Commission report." In the Commission's report on legal services and procedures, 23 of the recommendations concern legal procedure and are accompanied by full supporting arguments. It is not until the end of the report that it is disclosed that a majority of the commissioners did not vote to approve 20 out of the 23 recommendations, but felt "that in view of the searching investigation and the eminence at the Bar of the members of the task force who proposed the changes . . . these should be furnished to the Congress but without Commission action upon them."[34] In other reports, however, the Commission makes it clear when it is speaking for itself and when it is endorsing or simply commending for agency consideration the recommendations of the task force. This is at least clarifying, But it often places the Commission in the odd position of endorsing task force recommendations that are so detailed and specialized that the Commission can only be expressing its blind faith in the task force's judgment.

The report on paperwork management, which appeared in two parts, one in

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[34] The picture is perhaps more confused than the text indicates. Six commissioners signed the separate statement quoted. Two of them, though, had been absent from the meeting at which the report was adopted. Commissioner Farley did not join the six, but he did file a separate statement of his own saying, "With some reservations, I voted in favor of adopting the recommendations . . . so that by Commission action these recommendations would be transmitted to the Congress for its consideration. . . . they will require careful analysis and study by the Congress." U. S. Commission . . . , *Legal Services and Procedure* (Washington, March 1955), p. 96. Commissioner Holifield, who did not join the six, filed a dissent and separate statement which indicates he agreed that the chapter on legal procedure "should be included in the report submitted to Congress," but indicates too that he has objections to basic tendencies of the recommendations, pp. 98 and 110 f.

January and one in June of 1955, demonstrates confusion confounded. The costs of paperwork are found so high (four billion dollars a year) and the obvious opportunities for savings so great ("at least a quarter of a billion dollars") that one would scarcely know that the Bureau of the Budget, the National Archives, the General Services Administration (of which the National Archives is now a part), and most major agencies have been giving serious attention to the problem for years. Although the Bureau of the Budget, through its Office of Statistical Standards (lineal descendant of the Central Statistical Board established in 1933), and aided since 1942 by the Advisory Council on Federal Reports, has been undertaking to control the flow of data requests to industry and the public, the Commission talks of the "wilderness" of the 4,700 questionnaires and reports "imposed" upon private citizens and business concerns. Instead of encouraging these existing efforts or recommending ways of strengthening them, the Commission's task force set up 29 committees, representing various industries, and negotiated 75 agency-industry agreements for elimination or modification of reporting requirements. The brusque, perhaps arrogant conclusion, after this shouldering aside of the responsible agencies, is that if the latters' efforts "were patterned after the methods followed by our task force, substantial results could be achieved."[35] In the January part of its report the Commission endorsed with the phrase, "should be adopted," a checklist of eighteen highly specific proposals of the task force on paperwork management. In its June report it spent seven pages repeating these and publishing what the General Services Administration had and had not done to carry out these recommendations. One may ponder whether this prodding in public for agency acceptance and speedy action is appropriate to the advisory role of the Hoover Commission.

The Commission reports vary greatly in clarity, substantiality, relevance of findings to recommendations, and quality of prose. Most of the reports avoid the first Hoover Commission's erratic tendency to justify fully its trivial recommendations and to present major recommendations as self-demonstrating propositions. Descriptive information abounds. Many reports are peppered with quantitative findings and estimates of costs and savings. Both important and unimportant "horror stories" are presented (the Government writes a billion letters a year, which cost a billion dollars; the Army ration allows twice as many eggs as does the Navy ration). The most puzzling feature is the devotion of many pages to the mere listing of the government agencies concerned with a topic, accompanied by a brief description of the function of each and perhaps a statement of expenditures. Often this cataloguing of commonplace information leads nowhere, since there is no editorializing along with the cataloguing, there is no summary conclusion, and the recommendations reached by the Commission have nothing to do with the number or jurisdictions of agencies. The overseas economic operations report, after listing 30 United States and United Nations agencies, actually recommended dispersal of those functions that were currently centralized in the Foreign Operations Administration.

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[35] U. S. Commission . . ., *Paperwork Management: Part II, The Nation's Paperwork for the Government—An Experiment* (Washington, June 1955), p. 6. To assure continuance of the undertaking, the Task Force recommended "that the Congress establish a three-member, nonsalaried commission, advisory to the President, on Paperwork Required by Offices and Departments, which we will refer to hereafter as PROD." U. S. Commission . . ., *Task Force Report on Paperwork Management: Part II* . . . (Washington, June 1955), p. 53. Happily, the Commission rejected this recommendation.

A number of the reports are principally concerned with the "business side" of the Department of Defense. It is difficult to reconcile their eagerness in exposing error and their assuredness in prescribing remedies with the impression that for many years the Department of Defense and the several departments that it now embraces have had a galaxy of joint boards and committees working on joint or single-agent procurement arrangements for the supply items common to two or more of the armed services. Consulting firms have ranged through the Pentagon, built-in organization-and-methods staffs have flourished, and the interchange of businessmen and general officers has fostered the kind of will that finds a way to promote efficiency and eliminate waste.

All of these difficulties of interpretation aside, the Commission's government would look something like the following. Thirty-one agencies would report directly to the President, and some or all of the other 33 would "report to some official in the executive office whom he may designate." The Executive Office of the President would find room for a Water Resources Board which would "determine the broad policies for recommendation to the President, and, with his approval, to the Congress," and "devise methods of coordination of plans and actions of the agencies both at the Washington level and in the field."[36] The President would also establish a Federal Advisory Council of Health with review, appraisal, and recommendatory functions over the range of medical care, hospital construction and use, preventive health services, medical manpower, and similar problem areas. Readers of the first Hoover Commission's reports will recognize these arrangements as retreats from that Commission's proposals to consolidate the Corps of Engineers' civil functions with the reclamation work of the Department of the Interior and to establish a United Medical Administration.

The Attorney General's role as chief law officer would be strengthened. He would conduct all litigation on behalf of the Government and its departments and agencies. An Office of Legal Services and Procedures would be established in the Department of Justice to administer the legal career service separately and distinctly from the Civil Service Commission, to develop and apply uniform recruitment procedures for attorneys, to assist agencies in simplifying and making uniform rules of substance and procedure, and to receive and investigate complaints regarding legal services. Rules governing representation of parties before agencies would be tightened up to keep nonlawyers from practicing law, but lawyers would no longer need to meet special qualifications prescribed by the individual regulatory agencies.

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[36] U. S. Commission . . . , *Water Resources and Power*, vol. 1 (Washington, June 1955), p. 38. The Citizens Committee for the Hoover Report has reprinted this volume, deleting from the cover and title page the indication that it is volume 1, though noting the fact in 6-point type on its last page; volume 2 of the *official* report carries 94 pages of dissenting remarks by Commissioners Brownell, Flemming, Farley, and Holifield.

An Administrative Court "within the judicial rather than the executive branch" would take over the present adjudicatory work of the Tax Court, the Federal Trade Commission and eight other commissions and departments in the "trade regulation field," and the National Labor Relations Board. "The Administrative Court . . . would serve as an intermediate stage in the evolution of administrative adjudication and the transfer of judicial activities from the agencies to courts of general jurisdiction."[37] The present hearing examiners would be replaced by hearing commissioners completely independent of the agency whose cases they hear and appointed by a Chief Hearing Commissioner attached to the Administrative Court and acting with the approval of a five-man Advisory Committee representing the judiciary, interested agencies, and attorneys practicing administrative law.

The Bureau of the Budget would expand and intensify its managerial and budgetary activities. It would require all agencies to submit to it annual reports on "the conduct of their operations." It would more impressively recognize accounting by appointment of an Assistant Director of the Budget for Accounting; each agency and principal agency subdivision would correspondingly establish the position of "comptroller." Accrual and cost accounting would be the basis for the executive budget and Congressional appropriations in place of the present obligational authority arrangement.

The principal innovations in the personnel field would be two. The Commission would expand the number of non-civil-service positions so as to include the positions that carry statutory or executive "delegations of authority requiring the incumbents to make final decisions in the establishment of governing policies, programs, objectives, and in the enunciation of principles which will control the action of subordinates . . . ," and all positions that "require the incumbents to act publicly in advocating new policies and in justifying or defending the governing policies or the basic principles or philosophy which controls their department or agency policies." The second innovation would be a senior civil service composed of 1,500 to 3,000 "highly qualified, politically neutral career administrators," who would "have status, rank, and salary vested in them as individuals so that they may be employed in a flexible manner in career positions throughout the Federal service."[38]

The General Services Administration would be strengthened on all sides. For instance, it would be authorized "to integrate into its own control, or to compel coordination of, all civilian agency storage" (but over 70 percent of the non-GSA civilian space is filled with agricultural commodities under the

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[37] U. S. Commission . . . , *Legal Services and Procedure* (Washington, March 1955), pp. 87f, 90.

[38] U. S. Commission . . . , *Personnel and Civil Service* (Washington, Feb. 1955), pp. 31–34, 44.

Department of Agriculture, and another six percent is Atomic Energy Commission storage space!), to "assume responsibility for the procurement and distribution of food and common use articles for consumption by all civilian agencies" and to have "general supervision over all phases of paperwork management throughout the executive branch." Statutory exemptions of particular agencies from its "central traffic management," "real property management," *et cetera,* would be ended. Internally the staffing of the General Services Administration would be strengthened and, if the agency responded to the Commission's urging, it would be bolder in the use of its powers.[39]

The Secretary of State would have control of policy formulation for nonmilitary foreign aid, but the several subject-matter departments and agencies would administer the several parts of this aid "to the greatest extent possible." The Central Intelligence Agency would be reorganized to emphasize intelligence data from Communist areas, and a permanent watchdog commission patterned after the Hoover Commission would be statutorily established.

In the Department of Defense the Secretary would create "a civilian position with sufficient stature and authority to insure the establishment and maintenance of effective planning and review of military requirements." The Secretary would have four "management Assistant Secretaries" for logistics, research and development, personnel, and financial management, in addition to his three assistant secretaries for legislative and public affairs, international security affairs, and atomic energy. The effect of this would be to drop the assistant secretary positions for applications, engineering, properties and installations, and health and medical affairs. Within each of the three armed service departments there would be four parallel management assistant secretaries. At the Department of Defense level each assistant secretary "should be responsible for screening the [budgetary] requirements programs of each department . . . for his area of functional jurisdiction" and for "formulating the policies that shall prevail throughout the functional area for which he is responsible." The counterpart assistant secretaries at the constituent department level would carry similar responsibilities within their departments. Each assistant secretary for logistics would have direct management control over supply and service activities; the military Chief of Staff would confine himself to "planning and requesting" what would be needed for supporting the operating forces, though he would retain actual direction of tactical and combat-related support activities of the logistical organization. As perhaps the most significant step, a Defense Supply and Service Administration would be established as a fourth major component of the Department of Defense. It would administer common supply and service activities.[40]

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[39] The provisions regarding the General Services Administration are scattered among a number of reports, whose citation seems unnecessary; the titles are suggested by the text.

[40] U. S. Commission . . . , *Business Organization of the Department of Defense* (Washington, June 1955). This is one of the most lucid and broad-gauged of the Commission's reports and the only one that concerns itself with a single, whole department.

Political scientists might undertake to extract from this partial pattern of the executive branch the hypotheses implicit in it. Those who wished to engage in a rigorously scientific approach might then distinguish the hypotheses that were testable from those that were not, and proceed to test those that cleared this initial hurdle. Those who have a sense of the "prevailing hypotheses" among students of administration and who are themselves sensitized by study and experience to the complexity of the real world of administration might consider the hypotheses emerging from the Hoover Commission in terms of their approximate "fit" with the prevailing hypotheses, with personal interpretations of administrative reality, and with such rules of reason as govern a judgment of plausibility or implausibility. Those inclined to agnosticism in the face of administrative doctrine might contribute by identifying those hypotheses of the Commission on which political scientists are merely laymen or on which their views are so contradictory and confused as to be worthless as points of departure for evaluative appraisals.

Yet, in this instance, these approaches to the study of specific recommendations seem arid and profitless. For scarcely any administrative reorganization group has submitted a report in which stated and unstated premises make it so apparent that there are questions antecedent to those of administrative mechanics. These concern the purposes of government and the priorities among them, the mental pictures men have of the world and of America, not only as they have been but as they are and as they might be, the breadth of interest and depth of understanding that men draw on when they confront a social institution like the Executive Branch of the Federal Government.

The important decisions here were made long before the Hoover Commission published its reports. They were made in 1953, and settled the membership of the Commission, the choice of topics to be studied, and the designation of task forces and staffs. Let it be quickly stated that the men who served in various capacities are "distinguished individuals of unquestioned loyalty, integrity, and ability, with records of unselfish service to the Nation,"[41] and that certain whole areas would have to be excepted from the pattern of predictability in the drift of the recommendations. By and large, though, the decisions on values were taken in the first flush of the Eisenhower administration before it came to grapple with the hard policy questions of defense expenditures, foreign economic aid, soil banks and farm price supports, school and highway construction programs, and the like. The reports, unlike those of the Kestnbaum Commission, reflect little of the changes in top administration policy that accompanied the ordeals of governmental responsibility. By the time they appeared they had already begun to take on an anachronistic flavor.

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[41] The phrase was used by the Hoover Commission to characterize the watchdog commission it suggested should be established to survey and report on the work of agencies concerned with foreign intelligence operations; "it would be patterned after the Commission on Organization of the Executive Branch of the Government (Hoover Commission)." U. S. Commission . . . , *Intelligence Activities* (Washington, June 1955), p. 71.

The popular version of the Commission reports, commercially published in 1956,[42] concludes that "the Hoover Commission met all its goals." The passage continues:

> It made a frontal attack on Big Government and all that it means, but it did not recommend the elimination of any one activity required for the security or the welfare of the American people. All its recommendations stood firmly on American principles of Government. It reaffirmed the rule of law. It supported civil control of the Government. It strengthened control of the purse by Congress. It kept in mind at all times the basic fact that the American Government is for the benefit of all the people and not just for fractions of them, no matter how noisy and insistent these fractions may be in presenting their selfish demands. It served the cause of States' rights by asserting and reasserting that the Federal Government should not do what can be done equally well by State or local governments. It helped to renew the vigor and prosperity of the free enterprise system by exposing the Government's colossal business ventures and by demanding that it stop its unfair competition.[43]

Thomas Reed Powell, in reviewing James M. Beck's *The Constitution of the United States*, observed, "I have read a great many books about the Constitution, but there is no other book that has given me just the same kind of pleasure that this one has."[44] The second Hoover Commission's reports give political scientists today something of this same reward—a pleasure much alloyed but redeemed by provocativeness. With this bittersweet quality in mind, political scientists can join in the panegyrists' concluding evaluation, "Apart from all else, the Commission's investigations and studies have been of great educational value, and this fact alone would make them definitely worth while."[45]

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[42] Neil MacNeil and Harold W. Metz, *op. cit.*, note 11 above.

[43] *Id.*, p. 310.

[44] "Constitutional Metaphors," *New Republic*, Vol. 41, pp. 314 f, at p. 315 (February 11, 1925).

[45] Neil MacNeil and Harold W. Metz, *loc. cit.*

CONSTITUTIONAL LAW IN 1955–1956

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No changes in the personnel of the Supreme Court occurred during the 1955 Term.

Noteworthy among publications dealing with the Court and with constitutional law which appeared during the period under review were a first biography of James Wilson, a member of the original Court;[1] symposia on the late Justice Roberts,[2] the late Professor Thomas Reed Powell,[3] and Justice Black;[4] several interesting reappraisals of John Marshall;[5] and additional installments of Professor Mason's important work on Justice Stone.[6] A full scale critique of Charles Beard's interpretation of the Constitution was published,[7] as well as a variety of writings on historical aspects of the Court,[8] and on a wide range of problems of judicial practice[9] and public law.[10]

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[1] Charles Page Smith, *James Wilson, Founding Father, 1742–1798* (Chapel Hill, 1956).

[2] *University of Pennsylvania Law Review,* Vol. 104, pp. 311–379 (Dec., 1955). The essay by Justice Frankfurter is especially noteworthy, shedding new light on Justice Roberts' "switch in time." *Stanford Law Review,* Vol. 8, pp. 3–76 (Dec., 1955).

[3] *Harvard Law Review,* Vol. 69, pp. 793–805 (March, 1956). See also Powell, *Vagaries and Varieties in Constitutional Interpretation* (New York, 1956).

[4] *Yale Law Journal,* Vol. 65, pp. 449–528 (Feb., 1956).

[5] W. Melville Jones, ed., *Chief Justice John Marshall: A Reappraisal* (Ithaca, 1956); Felix Frankfurter, "John Marshall and the Judicial Function," *Harvard Law Review,* Vol. 69, pp. 217–238 (Dec., 1955); William Winslow Crosskey, "John Marshall and the Constitution," *University of Chicago Law Review,* Vol. 23, pp. 377–397 (Spring, 1956); Symposium, *University of Pennsylvania Law Review,* Vol. 104, pp. 1–68 (Oct., 1955). See also James A. Servies, *A Bibliography of John Marshall* (Washington, 1956).

[6] Alpheus T. Mason, "Inter Arma Silent Leges: Chief Justice Stone's Views," *Harvard Law Review,* Vol. 69, pp. 806–838 (March, 1956); "The Core of Free Government, 1938–40: Mr. Justice Stone and 'Preferred Freedoms,' " *Yale Law Journal,* Vol. 65, pp. 597–628 (April, 1956).

[7] Robert E. Brown, *Charles Beard and the Constitution* (Princeton, 1956).

[8] Dexter Perkins, *Charles Evans Hughes and American Democratic Statesmanship* (Boston, 1956); Allison Dunham and P. B. Kurland, *Mr. Justice* (Chicago, 1956); David M. Silver, *Lincoln's Supreme Court* (Urbana, 1956); Richard P. Longaker, "Andrew Jackson and the Judiciary," *Political Science Quarterly,* Vol. 71, pp. 341–364 (Sept., 1956). Since 1954 John C. Hogan has published some eight articles in various journals on Justice Joseph Story. For the latest see: "Justice Story on the Common Law of Evidence," *Vanderbilt Law Review,* Vol. 9, pp. 51–67 (Jan., 1956), and "Blackstone and Joseph Story—Their Influence on the Development of Criminal Law in America," *Minnesota Law Review,* Vol. 40, pp. 107–124 (Jan., 1956).

[9] Louis L. Jaffe, "Judicial Review: Question of Law," *Harvard Law Review,* Vol. 69, pp. 239–276 (Dec., 1955), "Judicial Review: Question of Fact," *ibid.,* pp. 1020–1056 (April, 1956); Bernard Schwartz, "Gray v. Powell and the Scope of Review," *Michigan Law Review,* Vol. 54, pp. 1–70 (Nov., 1955); Note, "Supreme Court per Curiam Practice: A Critique," *Harvard Law Review,* Vol. 69, pp. 707–725 (Feb., 1956); Julius Cohen, "The 'Good Man' and the Role of Reason in Legislative Law," *Cornell Law Quarterly,* Vol. 41, pp. 386–398 (Spring, 1956); Note, "Advisory Opinions on the Constitutionality of

The total number of cases disposed of with finality during the 1955 Term reached the very high figure of 1,630, as compared with 1,352 cases the year before, which in turn was, comparatively speaking, a large number. There were 94 dispositions (some covering more than one case) with full opinion, of which 12 were *per curiam.* The Court was unanimous in 39 full opinion cases (41 per cent). Of 127 dispositions on the merits by memorandum order, 109, or 86 per cent, were by unanimous vote. Percentage-wise these figures were almost identical with those of the previous Term. In the perspective of the past five or six years, the number of cases decided by a divided Court has declined markedly. In all, 241 cases were decided on the merits, another unusually high figure, as compared with 198 a year ago. Of all the cases decided on the merits, 38 came from the federal district courts by appeal (of which 14 were affirmed), eight from the courts of appeals by appeal (of which two were affirmed) and 101 by certiorari (of which 35 were affirmed), 75 from state courts by appeal (of which seven were affirmed) and 17 by certiorari (of which six were affirmed), and two from specialized federal courts by certiorari (both affirmed). Of the 241 cases decided on the merits, the Court affirmed only 66.

Certiorari was granted by the Court on the appellate docket in 123 cases, or 16.1 per cent of all petitions, while on the miscellaneous docket certiorari was granted in 16 cases, or 2.7 per cent of all petitions. The Court dismissed appeals in 70 cases, of which 40 were for want of a substantial federal question. Of the 75 appeals from the state courts disposed of on the merits, 63 were dismissed.

There were 55 dissenting opinions during the Term. Justices Douglas and Frankfurter wrote 12 dissenting opinions each, Justice Harlan filed eight, Justice Reed six, Justice Black five, Justice Burton four, Chief Justice Warren and Justice Clark three each, and Justice Minton only two. Justice Frankfurter wrote 14 of the 21 concurring opinions filed during the Term, Justices Black, Douglas and Harlan two each, and Justice Burton one. In all dispositions on the merits, whether by full opinion or memorandum order, there were 192 dissenting votes, with Justice Douglas voting in the negative 32 times, Justices

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Statutes," *Harvard Law Review*, Vol. 69, pp. 1302–1313 (May, 1956); Paul D. Carrington, "Political Questions: The Judicial Check on the Executive," *Virginia Law Review*, Vol. 42, pp. 175–201 (Feb., 1956); Charles Aikin, "*Stare Decisis*, Precedent, and the Constitution," *Western Political Quarterly*, Vol. 9, pp. 87–92 (March, 1956). See also: Arthur T. Vanderbilt, *Judges and Jurors: Their Functions, Qualifications and Selection* (Boston, 1956); Francis R. Aumann, *The Instrumentalities of Justice* (Columbus, 1956).

[10] Felix Frankfurter, *Of Law and Men* (New York, 1956); Wallace Mendelson, "Mr. Justice Frankfurter on the Construction of Statutes," *California Law Review*, Vol. 43, pp. 652–673 (Oct., 1955); William O. Douglas, *We the Judges* (Garden City, N. Y., 1956); Robert A. Horn, *Groups and the Constitution* (Stanford, 1956); Clark Spurlock, *Education and the Supreme Court* (Urbana, 1956); Bernard Schwartz, *American Constitutional Law* (Cambridge, England, 1955); Jerre S. Williams, *The Supreme Court Speaks* (Austin, 1956); Paul L. Murphy, "The New Deal Agricultural Program and the Constitution," *Agricultural History*, Vol. 29, pp. 160–169 (Oct., 1955); Jack Greenberg, "Social Scientists Take the Stand: A Review and Appraisal of Their Testimony in Litigation," *Michigan Law Review*, Vol. 54, pp. 953–970 (May, 1956); Arnold M. Rose, "The Social Scientist as an Expert Witness," *Minnesota Law Review*, Vol. 40, pp. 205–218 (Feb., 1956).

Frankfurter and Reed 25 times each, Justice Burton 24 times, Justices Black and Harlan 23 times each, Chief Justice Warren and Justice Minton 15 times each. Justice Clark, as usual, was low man with only ten dissenting votes.

The authorship of opinions of the Court was almost evenly divided: Justice Clark wrote eleven, Justice Douglas ten, Chief Justice Warren and Justice Burton eight each, and the rest nine each.

I. QUESTIONS OF NATIONAL POWER

1. FEDERAL RIGHTS

The Federal Loyalty Program. Civil liberties problems continued to be the subject of a great deal of writing during the past year,[11] and supplied the content of a large proportion of the Court's work. Once more the federal employee fidelity program, long the subject of anxious debate in the country,[12] reached the Supreme Court in *Cole v. Young*.[13] And once more, as in *Peters v. Hobby*,[14] during the previous Term, the Court succeeded in avoiding any of the grave constitutional issues raised in the litigation by deciding the case on minimal non-constitutional grounds.

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[11] For general surveys see: Robert E. Cushman, *Civil Liberties in the United States* (Ithaca, 1956); Zechariah Chafee, Jr., *The Blessings of Liberty* (Philadelphia, 1956); Leo Pfeffer, *The Liberties of an American* (Boston, 1956); Walter Gellhorn, *Individual Freedom and Governmental Restraints* (Baton Rouge, 1956); Corliss Lamont, *Freedom Is as Freedom Does* (New York, 1956); Samuel Eliot Morison, *Freedom in Contemporary Society* (Boston, 1956); Robert Allen Rutland, *The Birth of the Bill of Rights* (Chapel Hill, 1955); American Civil Liberties Union, *Clearing the Main Channels*, 35th Annual Report (New York, 1955); James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca, 1956); James Frederick Green, *The United Nations and Human Rights* (Washington, 1956); Edwin S. Newman, ed., *The Freedom Reader* (New York, 1955); Carl Brent Swisher, "The Delineation of Personal and Civil Rights," *Georgetown Law Journal*, Vol. 44, pp. 395–406 (March, 1956); Robert J. Harris, "The Impact of the Cold War upon Civil Liberties," *Journal of Politics*, Vol. 18, pp. 3–16 (Feb., 1956); Claude G. Bowers, "Jefferson and the Bill of Rights," *Virginia Law Review*, Vol. 41, pp. 709–729 (Oct., 1955).

On free speech and press problems see: Paul Blanshard, *The Right to Read* (Boston, 1955); Kent Cooper, *The Right to Know* (New York, 1956); Norman St. John-Stevas, *Obscenity and the Law* (New York, 1956); George K. Gardner, "Free Speech in Public Places," *Boston University Law Review*, Vol. 36, pp. 239–252 (Spring, 1956); Robert A. Leflar, "Legal Liability for the Exercise of Free Speech," *Arkansas Law Review*, Vol. 10, pp. 155–178 (Spring, 1956); Florence E. Allen, "Fair Trial and Free Press: No Fundamental Clash between the Two," *American Bar Association Journal*, Vol. 41, pp. 897–900 (Oct., 1955); Nanette Dembitz, "Congressional Investigation of Newspapermen, Authors, and Others in the Opinion Field—Its Legality under the First Amendment," *Minnesota Law Review*, Vol. 40, pp. 517–560 (April, 1956); Comment, "Legislative Inquiry into Political Activity: First Amendment Immunity from Committee Interrogation," *Yale Law Journal*, Vol. 65, pp. 1159–1195 (July, 1956); Comment, "Developments in the Law: Defamation," *Harvard Law Review*, Vol. 69, pp. 875–960 (March, 1956).

On freedom of religion see: Orville H. Zabel, *God and Caesar in Nebraska* (Lincoln, 1955); Loren P. Beth, "Toward a Modern American Theory of Church-State Relationships," *Political Science Quarterly*, Vol. 70, pp. 573–597 (Dec., 1955); Note, "The First Amendment and Distribution of Religious Literature in the Public Schools," *Virginia Law Review*, Vol. 41, pp. 789–807 (Oct., 1955); Thomas J. Trimble, "Bible Reading in Public Schools," *Vanderbilt Law Review*, Vol. 9, pp. 849–860 (June, 1956).

See also: Leonard B. Boudin, "The Constitutional Right to Travel," *Columbia Law Review*, Vol. 56, pp. 47–75 (Jan., 1956); Comment, "The Passport Puzzle," *University of Chicago Law Review*, Vol. 23, pp. 260–289 (Winter, 1956); Howard Jay Graham, "'Builded Better than they Knew,' Part I: The Framers, the Railroads and the Fourteenth Amendment," *University of Pittsburgh Law Review*, Vol. 17, pp. 537–584 (Summer, 1956); Joseph B. James, *The Framing of the Fourteenth Amendment* (Urbana, 1956).

The question was whether a five-point preference-eligible veteran employed in the classified civil service as a food and drug inspector in the Department of Health, Education and Welfare could be discharged under the 1953 Eisenhower Loyalty Order (Executive Order 10450), which had been promulgated under the authority of the Summary Suspension Act of 1950. This Act gives the agency head an absolute discretion to suspend any employee "when deemed necessary in the interest of national security," and then, after investigation and review, to discharge him "in the interest of national security." The 1950 statute was expressly made applicable only to the Departments of State, Commerce, Justice, and Defense, and to the Army, Navy, Air Force, Coast Guard, the Atomic Energy Commission, the National Security Resources Board and the National Advisory Committee for Aeronautics. But Section 3 of the Act provided that it could be extended "to such other departments and agencies of the Government as the President may, from time to time, deem necessary in the best interests of national security." In Executive Order 10450 the President had extended the Act to all other departments and agencies of the government. Cole, who had been suspended without pay on charges of close association with individuals reliably reported to be Communists and of sympathetic association with an allegedly subversive organization, refused to answer the charges or request a hearing, as he had a right to do under the Executive Order. On the contrary, he asserted the protection of the Veteran's Preference Act, under which he would be entitled to appeal his suspension to the Civil Service Commission, whose decision would be binding upon the employing agency.

By a 6–3 vote the Court held that Cole's dismissal had been contrary to law. Emphasizing that the Summary Suspension Act authorizes dismissal only when necessary in the interest of the "national security," it ruled that this term was not used in a sense so broad as to involve all governmental activities. On the contrary, said Justice Harlan, the term was used "in a definite and limited sense and relates only to those activities which are directly concerned with the Nation's safety, as distinguished from the general welfare." The question was not whether employees could be dismissed on loyalty grounds, for under the general personnel laws it had long been clear that dismissal on such grounds was a "cause" which will "promote the efficiency of the service," but only whether the summary procedures authorized by the 1950 Act were available in such a case as this. Justice Harlan said that it was "virtually conclusive" that if Congress had intended to include all government activities, it would have said so. Instead, since Congress specifically named eleven agencies, there is no doubt of the fact that Congress intended to single out agencies which are directly concerned with national defense, the so-called "sensitive" agencies. Thus the power of the President to extend the Act to other agencies must be understood in terms of the character of the agencies that Congress intended to reach. Furthermore, Justice Harlan argued that it was difficult to justify summary suspensions and unreviewable dismissals on loyalty grounds of employees who were not in sensitive positions. "Indeed," he said, "in view of the stigma attached to persons dismissed on loyalty grounds, the need for procedural safeguards seems even greater than in other cases, and we will not lightly assume that Congress intended to take away those safeguards in the absence of some overriding necessity, such as exists in the case of employees handling defense secrets." The Court majority found support for this position in the structure of the Act and in legislative history, and held that the 1950 Act was intended to be an exception to the general personnel laws, and not to supersede them. Since the Secretary had made no determination that Cole's position touched the "national security," the Court concluded his dismissal was not authorized by the 1950 Act, and therefore was in violation of the Veterans' Preference Act.

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[12] For a perceptive analysis of the phenomena of loyalty and disloyalty see Morton Grodzins, *The Loyal and the Disloyal* (Chicago, 1956).

[13] 351 U.S. 536 (1956).

[14] 349 U.S. 331 (1955). See this REVIEW, Vol. 50, pp. 46–50 (March, 1956).

Justice Clark dissented, along with Justices Reed and Minton, arguing that the Court's decision frustrates "the clear purpose of the Congress" and flies in the face of the plain words of the statute. He was apprehensive that the decision might leave the government "honeycombed with subversive employees." He maintained that legislative history supported his position, and that the Court was intruding into the area of presidential policy making, and into the domain of power vested in the President by Article II of the Constitution.[15] "We believe," he concluded, "the Court's order has stricken down the most effective weapon against subversive activity available to the Government. It is not realistic to say that the Government can be protected merely by applying the Act to sensitive jobs. One never knows just which job is sensitive. The janitor might prove to be in as important a spot security-wise as the top employee in the building."[16]

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[15] In the view of the Court of Appeals in this case the decisive consideration was that the Constitution vests all executive power in the President. 226 F. 2d 337 (D.C. Cir. 1955).

[16] See Report of the Special Committee of the Association of the Bar of the City of New York, *The Federal Loyalty-Security Program* (New York, 1956); Robert E. Cushman, "Guilt by Association: The Game of Presumptions," in Leonard D. White, ed., *The State of the Social Sciences* (Chicago, 1956), pp. 451–461; Frank F. Mankiewicz, John K. Mangum and Graham B. Moody, Jr., "The Federal Loyalty-Security Program: a Proposed Statute," *California Law Review*, Vol. 44, pp. 72–93 (March, 1956); Symposium, "Security in a Free Society," *Current History*, Vol. 29, pp. 197–254 (Oct., 1955); Symposium, "People, Government and Security: An Analysis of Three Books and a Program," *Northwestern University Law Review*, Vol. 51, pp. 79–111 (March–April, 1956); John Cogley, *Report on Blacklisting*, Vol. I, *Movies*, Vol. II, *Radio-Television* (New York, 1956); Harold W. Horowitz, "Legal Aspects of 'Political Black Listing' in the Entertainment Industry," *California Law Review*, Vol. 29, pp. 263–305 (April, 1956); Henry N. Williams, "Tenant's Loyalty Oaths," *Notre Dame Lawyer*, Vol. 31, pp. 190–222 (March, 1956);

The Federal Responsibility for Security. After Nelson, an acknowledged member of the Communist Party, had been convicted of sedition in a federal court, and was under sentence, he was convicted in a Pennsylvania court of violating the Pennsylvania Sedition Act, and sentenced to imprisonment for twenty years, fined $10,000 and assessed costs in the sum of $13,000. While the state law proscribes sedition against either the United States or the government of Pennsylvania, there was no evidence, in a large record, of sedition against the government of Pennsylvania. A majority of six justices agreed with the position taken by the state supreme court that the Smith Act superseded the state law, since both proscribed the same conduct.[17] Speaking for the Court, Chief Justice Warren pointed out that this decision did not affect the right of the states to enforce their sedition laws when the federal government has not occupied the field, that it did not limit the jurisdiction of the states where the Constitution and Congress have specifically given them concurrent jurisdiction, as in the case of prohibition, that it did not limit the right of a state to protect itself against sabotage or attempted violence, at any time, and that it did not prevent the state from prosecuting where the same act is both a federal and state offense.[18]

The Chief Justice observed that there is no precise formula for supersession, but held that several tests were met here. For one thing, he found the federal scheme of regulation so pervasive as to lead to the reasonable inference that Congress left no room for supplementary state action, and intended to occupy the field of sedition. He also stressed the point that the federal statutes, in the light of the vast appropriations for the armed services, and the large responsibilities of federal police organizations, touch a field in which the federal interest is so dominant that it may be assumed that enforcement of state laws in the same field is precluded. "Congress having thus treated seditious conduct as a matter of vital national concern, it is in no sense a local enforcement problem." Finally, he noted that enforcement of state sedition laws presents a serious

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Note, "Denial of Federally Aided Housing to Members of Organizations on the Attorney General's List," *Harvard Law Review*, Vol. 69, pp. 551–559 (Jan., 1956); Robert Horn, "The Protection of Internal Security," *Public Administration Review*, Vol. 16, pp. 40–52 (Winter, 1956); Murray Seasongood and Richard L. Strecker, "The Loyalty Review Board," *University of Cincinnati Law Review*, Vol. 25, pp. 1–42 (Winter, 1956).

[17] Pennsylvania v. Nelson, 350 U.S. 497 (1956). See Alan Reeve Hunt, "Federal Supremacy and State Anti-Subversive Legislation," *Michigan Law Review*, Vol. 53, pp. 407–438 (Jan., 1955); Note, "State Sedition Laws: Their Scope and Misapplication," *Indiana Law Journal*, Vol. 31, pp. 270–285 (Winter, 1956). See also: Carl A. Auerbach, "The Communist Control Act of 1954: A Proposed Legal-Political Theory of Free Speech," *University of Chicago Law Review*, Vol. 23, pp. 173–220 (Winter, 1956); Harold W. Chase, "The Libertarian Case of Making It a Crime to Be a Communist," *Temple Law Quarterly*, Vol. 29, pp. 121–133 (Winter, 1956).

[18] As in Fox v. Ohio, 5 How. 410 (1847), where the federal offense was counterfeiting and the state offense defrauding, and in Gilbert v. Minnesota, 254 U.S. 325 (1920), where the state law was construed as being merely a local police measure designed to keep the public peace, whereas the federal law proscribed conduct interfering with enlistment in the armed forces.

danger of conflict with the administration of the federal program. For example, federal policy since 1939 has required centralized control of prosecutions, whereas under Pennsylvania law even a private individual may initiate a prosecution. The Court did not rule on the constitutional question of double or multiple punishment, holding merely that "without compelling indication to the contrary, we will not assume that Congress intended to permit the possibility of double punishment."

The three dissenting justices argued that it is for Congress to state its mind, and that absent a specific bar to the exercise of state power, the presumption should be in favor of state activity. In their view the Court should be reluctant to make a finding of supersession. Federal police power, they maintained, carries no such dominance over similar state powers as does federal power in matters like foreign affairs or the coinage. The preservation of our rights and liberties is the responsibility of both the United States and the states, they argued, and Congress had not excluded the states from activity which, as the Solicitor General said in his *amicus* brief, did not interfere with enforcement of any federal law, and of which Congress must have been aware when it wrote its legislation.

Deportation of Aliens. Once again the Court took a strict view of the rights of aliens when it ruled by a 5–4 vote in *Jay v. Boyd*[19] that it was not improper for administrative officials to make an adverse finding on an application for suspension of deportation on the basis of confidential information. The regulations of the Attorney General provide that when an alien qualified for suspension of deportation under Section 244 of the Immigration and Nationality Act applies for relief, the determination may be made on confidential information, without disclosure to the applicant, if in the opinion of those making the determination disclosure of the information would be prejudicial to the public interest, safety or security. Jay had admitted at a fair hearing that he had been a voluntary member of the Communist Party from 1935 to 1940. Being able to demonstrate good behavior for at least ten years since the ground for deportation arose, and also exceptional hardship, Jay met the statutory prerequisites for applying for suspension of deportation. But a special inquiry officer found against him on the basis of confidential information, and the Board of Immigration Appeals dismissed an appeal after reviewing the whole record, including the undisclosed information. There is no statutory grant of the right to a hearing on an application to the Attorney General for discretionary suspension of deportation.

Speaking for the Court, Justice Reed held that the Attorney General does not have to exercise his discretion in suspension cases personally, for, since the discretion was conferred upon him as an administrator, under his rulemaking power he may delegate this responsibility to special inquiry officers. Furthermore, he held that Section 244 of the Immigration Act does not require the Attorney General to give a hearing with all the evidence spread upon an open record. While the statute may implicitly require a hearing on an open record as to the specified statutory prerequisites to favorable action, it doesn't follow, said Justice Reed, that there is such a right with regard to the ultimate decision, this being left to the sound discretion of the Attorney General. He maintained that this is a matter of grace, and not of right, as in the case of probation, parole, pardon, or suspension of a criminal sentence. He brushed aside the appeal to the principles of free government with the observation that "we must adopt the plain meaning of the statute, however severe the consequences." There is no right to a suspension of deportation, and the Attorney General's discretion was described as being "unfettered."

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[19] 351 U.S. 345 (1956). See Will Maslow, "Recasting our Deportation Law: Proposals for Reform," *Columbia Law Review*, Vol. 56, pp. 309–366 (March, 1956); Symposium on Immigration, *Law and Contemporary Problems*, Vol. 21, pp. 211–426 (Spring, 1956); Note, "The Rights of Aliens in Deportation Proceedings," *Indiana Law Journal*, Vol. 31, pp. 218–233 (Winter, 1956); Note, "Private Bills and the Immigration Law," *Harvard Law Review*, Vol. 69, pp. 1083–1096 (April, 1956); Lena L. Orlow, "The Immigration and Nationality Act in Operation," *Temple Law Quarterly*, Vol. 29, pp. 153–168 (Winter, 1956).

Thus the majority of the Court treated the constitutional issue almost casually. Not so the dissenters, each of whom spoke his own mind. The Chief Justice argued that the majority opinion "sacrifices to form too much of the American spirit of fair play," that the Attorney General's discretion is not unfettered, but only administrative, and can be exercised only on the basis of an administrative hearing in the American sense. A hearing where the decision rests on confidential information is no hearing at all, and violates due process. Justice Black thought that the Attorney General's regulation went beyond his statutory power, since the statute says that the alien must be given a chance to "prove" that he is eligible for relief, and this means a full and fair hearing. He also argued that this procedure was unconstitutional, and a departure from the ideal of liberty under law. Unfettered discretion is arbitrary power, and life and freedom should never have to depend upon it. Justice Frankfurter took the position that the Attorney General could not delegate his discretionary power to subordinates, but that if he does, he is then bound by the basic requirements of administrative law, for agencies of administrative law cannot be authorized to defy the presuppositions of a fair hearing. Justice Douglas maintained that this sort of procedure violates the due process requirement of a fair hearing, and is so un-American that we should lean over backwards to avoid imputing to Congress a purpose to sanction it.

Self-incrimination. Over the dissenting votes of Justices Black and Douglas, the Court sustained, in *Ullmann v. United States*,[20] the constitutionality of the Immunity Act of 1954. This statute provides that whenever a United States attorney believes it to be necessary in the public interest to secure the testimony or papers of a witness in any judicial proceeding in connection with threats to national security or defense (such as treason, sabotage, espionage, sedition and similar crimes, as well as conspiracies towards such ends), he may, upon approval of the Attorney General, apply to the court for an order directing the witness to testify or produce the evidence. On such order, the witness cannot refuse to testify on the ground of self-incrimination, "but no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding . . . against him in any court." In the course of a grand jury investigation into attempts to endanger the national security through espionage, Ullmann refused to answer questions regarding his knowledge of such activities, and regarding his membership in the Communist Party as well as the membership of other people, on Fifth Amendment grounds. After refusing to testify in response to a court order issued under the Immunity Act, Ullmann was convicted of contempt and given six months in jail.

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[20] 350 U.S. 422 (1956). See: Samuel H. Hofstadter, *The Fifth Amendment and the Immunity Act of 1954* (New York, 1955); Beecher N. Claflin, "The Self-Incrimination Clause" (1956 Ross Essay), *American Bar Association Journal*, Vol. 42, pp. 935–938, 989–990 (Oct., 1956); Duncan O. McKee, "The Fifth Amendment and the Federal Gambling Tax," *Duke Bar Journal*, Vol. 5, pp. 86–101 (1956).

Speaking for the Court, Justice Frankfurter made it perfectly clear that he regarded the privilege against self-incrimination as "an important advance in the development of our liberty," and that time has not diminished the need for it. Indeed, he insisted that this constitutional protection should not be construed "in a hostile or niggardly spirit," and he lamented the fact that altogether too many people today view the privilege as a shelter for wrongdoers, and too readily assume that those who invoke it are either guilty of crime or are perjuring themselves. "Such a view," he said, "does scant honor to the patriots who sponsored the Bill of Rights. . . ." While an occasional guilty person may thus escape his just deserts, the privilege serves the high purpose of avoiding a recurrence of such evils as the Inquisition and the Star Chamber. Nevertheless, the government may trade the right to prosecute for the privilege, and Justice Frankfurter held that this issue had been settled long ago in the leading case of *Brown v. Walker*.[21] He rejected the argument that the present case is distinguishable from the situation in the *Brown* case, which dealt with testimony before the Interstate Commerce Commission, in that today the witness faces new disabilities not then in existence, such as loss of a job, expulsion from a union, denial of the right to a passport, public opprobrium, etc. The short answer was that the immunity need only remove the sanctions which generate the fear justifying the privilege, namely, a criminal prosecution. Nor would Justice Frankfurter agree that *Brown v. Walker* should be overruled; the Court had in that case thoroughly considered the issues after submission by distinguished counsel, and it has frequently since then referred to it with approval. The statute which had been sustained in the *Brown* case has become "part of our constitutional fabric," and has been included in almost all major regulatory acts adopted since 1893. The sole concern of the privilege is the danger of criminal penalties, and "once the reason for the privilege ceases, the privilege ceases."

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[21] 161 U.S. 591 (1896).

In addition, the Court ruled that since the district judge did not have discretion under the 1954 Act to grant or deny the order on the basis of his own assessment of the requirements of the public interest, he was exercising judicial power. Finally, it was held that there was no danger of a state prosecution of any witness to whom the immunity bath is given, since the provision of the statute giving immunity from prosecution "in any court" clearly falls within the scope of the war power of Congress, as understood in the light of the Elastic Clause. Congress may undoubtedly place this restriction upon the exercise of state power in order to exercise more effectively a conceded federal power of safeguarding national security.

The dissenters were in favor of overruling the venerable precedent of *Brown v. Walker*, since they believed that the right of silence created by the Fifth Amendment was altogether beyond the reach of Congress. Furthermore, since the Immunity Act does not protect against many of the disabilities which are now imposed upon Communists, such as ineligibility for employment in government or in defense establishments, risk of internment, loss of trade union office, inclusion in black lists, and the like, they thought that the statute grants only a partial and not the constitutionally necessary complete immunity. For, said Justice Douglas, "any forfeiture of rights as a result of compelled testimony is at war with the Fifth Amendment." Indeed, he argued, it is not sufficient that the immunity protects against a criminal conviction, since there are other "mischiefs" to be guarded against, such as the risk of prosecution, as distinguished from the risk of conviction, the affront to "conscience and human dignity and freedom of expression," the danger of infamy and disgrace, and the danger of practical excommunication from society. He insisted that historically infamy was considered as effective a punishment as a fine or prison sentence.[22]

Trail by Jury and Military Justice. Far reaching questions dealing with military justice were before the 1955 Term of the Court. The most important case was *U.S. ex rel. Toth v. Quarles*,[23] in which an act of Congress was held unconstitutional, a rare occurrence since 1937. After serving with the Air Force in Korea, Toth was honorably discharged and returned home to work in Pittsburgh. Five months later he was arrested by military authorities on the charge of having committed murder while an airman in Korea, though at the time of his arrest he had no relationship of any kind with the military. He was taken to Korea to be tried before a court-martial, under the authority of Article 3(a) of the Uniform Code of Military Justice of 1950, which provides that any one charged with having committed a crime, while subject to the Code, which was punishable by a sentence of at least five years, and for which he cannot be tried in any federal or state court, is not relieved from trial by a court-martial. By a 6–3 vote the Court ruled that Toth was entitled to his freedom on a petition for habeas corpus.

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[22] Justice Douglas relied heavily upon Mitchell Franklin, "The *Encyclopédiste* Origin and Meaning of the Fifth Amendment," *Lawyers Guild Review*, Vol. 15, pp. 41–62 (Summer, 1955).

[23] 350 U.S. 11 (1955). See: William R. Willis, Jr., "Toth v. Quarles—For Better or for Worse?" *Vanderbilt Law Review*, Vol. 9, pp. 534–541 (April, 1956); Robison O. Everett, "Persons Who Can Be Tried by Court-Martial," *Journal of Public Law*, Vol. 5, pp. 148–173 (Spring, 1956); E. R. Schellhammer, "Courts-Martial vs. Constitutional Guarantees," *University of Pittsburgh Law Review*, Vol. 17, pp. 454–568 (Spring, 1956).

The Court refused to sustain the Act on the basis of the power of Congress "to raise and support armies," or "to declare War," or to punish "Offences against the Law of Nations." Nor could this assertion of military power over civilians rest on the President's power as commander-in-chief, or on any theory of martial law. Above all, the Court could not find that the Act was valid as an exercise of the Article I power given to Congress "to make Rules for the Government and Regulation of the land and naval Forces." Under this clause Congress may subject persons actually in the armed forces to court-martial, including a dishonorably discharged soldier serving a sentence as a military prisoner. But the Court has never intimated, said Justice Black, that under its Article I power Congress can extend the military jurisdiction to civilian ex-soldiers who had severed all relationships with the military. This is not only consistent with the natural meaning of the clause in question, but there is also a "compelling reason" for construing it this way, since an expansion of court-martial jurisdiction, such as that of Article 3(a) of the Uniform Code, necessarily encroaches on the jurisdiction of Article III courts. And the quality of justice is better in these courts: there are more constitutional safeguards; these courts are a separate but coordinate branch of government; their only business is to try cases; with life tenure and salaries not subject to diminution the judges are more independent; indictment is by grand jury, and trial by a local jury is had in the state where the crime was committed. On the other hand, Justice Black stressed that military tribunals do not rank with Article III courts as adjudicators of the guilt or innocence of persons charged with crime, since the primary business of armies and navies is to fight wars, or to be ready to fight them, and the trial of soldiers is merely incidental to their main function. Furthermore, the judges of the military tribunals are appointed by military commanders and are removable at will. There is, finally, a great deal of difference between trial by jury and by selected members of the military forces. The theory of the Constitution is that laymen are better than specialists to determine guilt or innocence. The jury brings into the courtroom a variety of habits, experiences, and feelings, and may differ from the specialists. In fact, said Justice Black, juries have often stood up in defense of liberty against the judges themselves in days of hysteria, as in the celebrated case of the acquittal of William Penn.

This does not necessarily mean, the Court pointed out, that the discharged soldier may escape punishment altogether for crimes committed while in the service. It is wholly within the constitutional power of Congress to provide for trial of such offenses in the federal district courts. And Justice Black found it impossible to believe that trial in such courts would disrupt army discipline or impair its morale.

The three dissenting justices, for whom Justice Reed spoke, objected that trial of Toth in a district court would be far from the scene of the alleged crime, and would be heard by jurors who do not understand the character of military crime as well as those who administer the Uniform Code of Military Justice. The purpose of the section under review was to assure discipline and the proper conduct of troops all over the world. The dissenters thought that Article 3(a) of the Code was a valid exercise of the power of Congress to regulate the armed forces, since it was concerned with the maintenance of discipline. They argued that the assumed superiority of the civil courts is immaterial since the case turns on what the Constitution says and what Congress has enacted. In any event, Justice Reed was certain that "the military is in position to give its personnel a fair trial." Justice Minton expressed the view in a brief dissenting opinion of his own that Toth was not a full-fledged civilian, since he had only a conditional discharge and the United States clearly reserved the right to try him by court-martial.

Later in the Term, however, and by 5–4 votes, the Court ruled in *Kinsella v. Krueger*[24] and *Reid v. Covert*[25] that under Article 2(11) of the Uniform Code of Military Justice, civilians accompanying the armed forces outside the United States, if jurisdiction is authorized under any treaty or agreement to which the United States is a party or any accepted rule of international law, could validly be tried by a court-martial. Under this article, and pursuant to a later agreement with Japan, a Mrs. Smith was convicted by a general court-martial in Tokyo for the murder of her husband, an officer in the United States army, and given a life sentence. In the other case, Mrs. Covert had been convicted and given a life-sentence by a court-martial in England for the murder of her husband, an Air Force sergeant. Both women were returned to the United States for incarceration in the federal reformatory at Alderson, West Virginia. The only difference between the two cases was that the Court of Military Appeals had set aside Mrs. Covert's conviction on grounds not material here, and she was then transferred to the District of Columbia jail for trial by a court-martial sitting at Bolling Air Force Base in the District.

Speaking for the Court's majority, Justice Clark noted that the Uniform Code was drawn with great care to include fundamental guarantees of due process, and that in fact it has provided "a fair and enlightened system of justice." He called it settled law since the days of John Marshall that Congress may establish legislative courts outside the territorial limits of the United States proper, and that the procedure in such courts need not comply with the standards prescribed by the Constitution for Article III courts. The Court in the *Insular Cases*[26] had recognized the power of Congress to enact a system of laws which did not provide for trial by jury, and again particularly in the *Balzac* case,[27] which held that the requirement of trial by jury does not apply to territorial courts in unincorporated territories. Furthermore, the right of Congress to establish consular courts pursuant to treaty for the trial without jury of American citizens for crimes committed in foreign countries was upheld in *In re Ross.*[28]

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[24] 351 U.S. 470 (1956).

[25] 351 U.S. 487 (1956).

[26] Hawaii v. Mankichi, 190 U.S. 197 (1903); Dorr v. United States, 195 U.S. 138 (1904).

[27] Balzac v. Porto Rico, 258 U.S. 298 (1922).

Due to the necessities of security, Justice Clark pointed out, we now have armed forces in some 63 foreign countries. Wherever possible families are allowed to go along, but the lives of these civilians are geared to the local military organization. It was not unreasonable, he ruled, for Congress to conclude that all should be governed by the same legal standard, and receive equal treatment under the law; a double standard might create unrest and confusion, and weaken effective law enforcement, as in cases of conspiracy or joint crimes. There are about a quarter of a million dependents and civilian workers abroad, and during the six years 1949 to 1955 some 2,280 civilians were tried by courts-martial. The requirement of a dual system of courts would thus create a serious problem of administration. Accordingly, the Court ruled, Congress has decided that the military commander, who has full responsibility for the care and safety of these civilians, should also have authority to regulate their conduct.

It was conceded that Congress could have established a system of territorial or consular courts for this purpose, but the Constitution does not compel it to do so. And Justice Clark found many reasons why Congress may have acted as it did: it might have wanted to avoid needless and potentially harmful duplication of a legal system already functioning wherever troops are stationed abroad; it might have decided that the Code was adequate, a reasonable judgment since in some respects it guarantees protections which the Supreme Court does not require of the states (e.g. as to double jeopardy, self-incrimination and use of illegally obtained evidence); in the light of the *Insular Cases* the absence of jury trial cannot be regarded as a constitutional defect; since foreign nations have agreed to relinquish jurisdiction only on the promise of prompt trial by existent authority, Congress may well have thought that trial by court-martial was preferable to trial in foreign courts; and for various good reasons Congress may have thought that bringing people to this country for trial was impracticable.

In the case of Mrs. Covert, there was the added fact that her first conviction was set aside, and that she was being held in the District jail for a court-martial trial in the District. The Court refused to make this an exception to the general rule that the jurisdiction of a tribunal, once acquired, continues until final dispostion. She had been subject to military jurisdiction at the time of the court-martial in England, and her transfer to this country under Air Force orders was in furtherance of that jurisdiction. Surely, the Court held, military jurisdiction is not defeated by the imposition of sentence, nor by a reversal of conviction and the ordering of a rehearing. Military courts have recognized rehearings to be but continuations of the original proceedings, and this is in accord with the intention of Congress, as indicated by legislative history.

These cases were decided at the very end of the Term, on June 11, and all four dissenters objected that they had not enough time to write dissenting opinions. "The questions raised are complex, the remedy drastic, and the consequences far-reaching upon the lives of civilians. The military is given new powers not hitherto thought consistent with our scheme of government." In a separate opinion labelled "reservation," Justice Frankfurter argued that since the majority had declined to examine the power of Congress "To make Rules for the Government and Regulation of the land and naval Forces," the plain inference is that the Court is not prepared to support the constitutional basis on which these convictions were secured. The precedent of *In re Ross* he explained away as relating to "an episode of the dead past about as unrelated to the world of today as the one-hoss shay is to the latest jet airplane." The capitulations, by which the consular courts had been established, had been forced upon powerless eastern and Asiatic countries. The *Insular Cases* he regarded as wholly inappropriate authority. Accordingly, he preferred to reserve judgment.

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[28] 140 U.S. 453 (1891).

These grave issues, disposed of by such a close vote, were reopened early in the 1956 Term, for on November 5, 1956, the Court granted these two women a rehearing by a 6–3 vote.[29] The four dissenters, Chief Justice Warren, and Justices Black, Douglas and Frankfurter, were joined by Justice Harlan, who had previously voted with the majority, and by the newly appointed Justice William J. Brennan, Jr., who replaced the retired Justice Minton in mid-October.

Trial in the Vicinage. Article III of the Constitution fixes venue for the trial of crimes "in the State," and the Sixth Amendment in the "district" where the crime shall have been committed. Johnston and Sokol resided in the western judicial district of Pennsylvania, and were registered there with local draft boards. Both were classified as conscientious objectors, and ordered to report to state hospitals located in the eastern judicial district of Pennsylvania for civilian work. Both reported to their boards, but refused to comply with their instructions. *Query:* does venue for their criminal prosecution lie in the eastern or in the western district? A third defendant, Patteson, had been classified by his local board in Oklahoma as a conscientious objector, and was ordered to report for work at the Topeka, Kansas, state hospital. *Query:* is he triable in Oklahoma or in Kansas? By a 6–3 vote the Court ruled that venue lies in the district or state where the civilian work was to be performed, rather than in the district or state where the accused resided or where the order to perform the work was issued.[30] Justice Reed said that the controlling general rule is "that where the crime charged is a failure to do a legally required act, the place fixed for its performance fixes the situs of the crime." Since there was no showing that any arbitrary action had taken place, he took the position that the possibility that registrants might be ordered to report to remote points did not require changing the law of venue. The constitutional provisions fix the venue of trial, but furnish no guidance for determining the place of the crime. This is determined by the acts of the accused that violate a statute. It is clear that the constitutional rule as to venue "states the public policy that fixes the situs of the trial in the vicinage of the crime rather than the residence of the accused." Venue lies where, in the language of the statute, the registrants did "knowingly fail or neglect or refuse to perform any duty required of him." Since the crime charged was failure to report for employment, venue must lie where the failure occurred. The three dissenting justices took the position that each defendant had defied the law at home, and not in the distant place. They thought that the statutory crime was failure of the conscientious objector to obey the order of the local draft board, and since they believed that the purpose of the constitutional provisions was to try offenders at home, any doubts should be resolved in favor of the defendants.

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[29] See *U.S. Law Week*, Vol. 25, No. 17, p. 3136 (Nov. 6, 1956).

[30] Johnston v. United States, 351 U.S. 215 (1956).

Grand Jury Indictment. Costello was indicted for wilfully attempting to evade payment of U.S. income taxes. At the trial the government used the net worth method of proof, and examined 144 witnesses and introduced 368 exhibits. None of these witnesses had been called before the grand jury. The only witnesses who did testify before the grand jury were three investigating government agents. On appeal Costello argued that the indictment had been improper since the only evidence before the grand jury was hearsay, for the three officers had no first hand knowledge of the transactions upon which their computations were based. He claimed that the indictment violated the Fifth Amendment, and in the alternative invoked the *McNabb* rule.[31] By unanimous vote the Court decided that no constitutional provision prescribes the kind of evidence upon which grand juries must act.[32] As in England, the American grand jury is a body of laymen who act in secret free from technical rules. Thus in *Holt v. United States*[33] the Court had refused to quash an indictment because it had been supported by incompetent evidence. If indictments were open to challenge on the ground that inadequate or incompetent evidence had been presented to the grand jury, Justice Black pointed out, great delay would result, and the defendant would be given a sort of preliminary trial to determine the competency and adequacy of the evidence before trial on the merits. Said Justice Black: "An indictment returned by a legally constituted and unbiased grand jury, like an information drawn by the prosecutor, if valid on its face, is enough to call for trial of the charge on the merits. The Fifth Amendment requires nothing more." Finally, the Court could find no persuasive reasons for a holding favorable to the defendant on the basis of the *McNabb* rule. For such a holding "would run counter to the whole history of the grand jury institution," and is required neither by justice nor the concept of a fair trial, since it would add nothing to the assurance of a fair trial on the merits.[34]

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[31] McNabb v. United States, 318 U.S. 332 (1943), holding, not as a matter of constitutional law, but as a requirement of the fair administration of justice, that a confession obtained by federal officers during a period of illegal confinement is inadmissible in a federal criminal prosecution.

[32] Costello v. United States, 350 U.S. 359 (1956).

[33] 218 U.S. 245 (1910).

[34] In a separate concurring opinion Justice Burton expressed the opinion that the declarations of the Court were too broad, for he believed that the grand jury action would

Search and Seizure. An important addition to our law of search and seizure was made by a 5–4 vote of the Court in *Rea v. United States.*[35] Rea was indicted in a federal court for unlawful acquisition of marihuana on evidence obtained with a search warrant issued by a United States court commissioner. A motion to suppress the evidence on the ground that the warrant had been issued improperly was granted by the district court, and on a later motion by the government the indictment was dismissed. No motion was made to return the evidence, which was in fact contraband and not returnable under the Internal Revenue Code. Following these events the federal narcotics agent who had been in charge of the case swore to a complaint before a New Mexico state judge, and Rea was arrested for violation of New Mexico law. The case depended upon the testimony of the federal agent, which in turn was based on the illegal search and on the evidence seized under the illegal federal warrant. A bare majority of the Court ruled that the district court had erred in refusing to enjoin the agent from testifying, and to order the destruction or transfer of the evidence to other agents.

While constitutional questions were pressed, they were all put aside, for the Court preferred to decide the case on the basis of its supervisory responsibility for the administration of justice in the federal courts in accordance with the *McNabb* rule. It was stressed that no action was sought against any state official, the only remedy being against a federal agent. Clearly the federal courts have the power to police federal rules governing searches and seizures. To enjoin the federal agent from testifying is merely one way of enforcing the federal rules against a person who owes obedience to them. It is irrelevant, said Justice Douglas, that the violation of these rules may be condoned by state practice. The point is that the federal agents must obey federal rules, and federal courts must enforce them. The federal policy would be defeated if the federal agent could flout the rules by using the fruits of his unlawful act in either a federal or state proceeding.

The four dissenters, for whom Justice Harlan spoke, protested that the *McNabb* rule applies only to courts and not to other law enforcement agencies. This is the first time, he asserted, that it has been suggested that the federal courts share with the executive branch of the government responsibility for supervising law enforcement activities as such. He also insisted that the court's ruling interferes with a state court, in violation of the established doctrine that the *McNabb* rule does not apply to state criminal trials. He also felt that the rule of the *Wolf* case,[36] that evidence seized unlawfully by a state can be used in a state prosecution, so far as federal law is concerned, supported

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have been subject to examination if it had been based on bias or prejudice, or if there had been no substantial or rationally persuasive evidence. The point in the case of Costello, he argued, was that the evidence, though hearsay, was rationally persuasive.

[35] 350 U.S. 214 (1956). See Note, *Columbia Law Review*, Vol. 56, pp. 940–944 (June, 1956); James A. Eichner, "Impact of the Rea Case on the Law of Illegal Search and Seizure," *University of Florida Law Review*, Vol. 9, pp. 178–192 (Summer, 1956).

[36] Wolf v. Colorado, 338 U.S. 25 (1949).

his position. He added: "To say that federal interference is nevertheless justified at this point in the proceedings whenever the State has not yet obtained the evidence seems to me to make the matter simply a race between a state prosecution and a federal injunction proceeding. I do not believe that a rule dependent on the fortuitous circumstance of winning that race is a sound one in this important field of federal-state relations."

Double Jeopardy. In an earlier proceeding a company pleaded *nolo contendere* to a five-count indictment for violating the Surplus Property Act, and paid fines amounting to $25,000. Later on, the government brought another action under a different section of the Act to recover $2,000 on each of five counts, based on the same transactions. This section provides that any person who engages in fraud to get surplus property must pay the United States $2,000 for each act. The Court ruled unanimously that this latter recovery was civil in nature, and that it is clearly established that Congress may impose both a criminal and a civil sanction regarding the same act or omission, without running afoul of the double jeopardy doctrine.[37] The taking of liquidated damages from contractors is a well-known remedy which Congress has used often, and when reasonable, liquidated damage provisions are not penalties but rather are civil in nature. The Court refused to hold that the measure of damages fixed by Congress was unreasonable or excessive, in view of the consequences of the acts of the wrongdoer.

Eminent Domain. The government brought suit against a power company to condemn certain land for the purpose of completing a project on the Savannah River, a navigable stream, the project having hydroelectric, flood control and navigation purposes, as approved by Congress in the Flood Control Act of 1944. The Court of Appeals ruled that the improvement of navigation was not the purpose of the taking, but only flood control and power, and accordingly held that just compensation includes the value of the land as a site for hydroelectric power operations. By a 5–4 vote the Supreme Court reversed, holding, first, that it is not for the courts to substitute their judgment for that of Congress as to what is or is not necessary for the improvement of navigation, since policy and engineering considerations are involved which are for Congress alone to evaluate.[38] And "if the interests of navigation are served," Justice Douglas said, "it is constitutionally irrelevant that other purposes may also be advanced." Secondly, the Court held, the interest of the United States in the flow of a navigable stream originates in the Commerce Clause, and this Clause speaks of power, not property. The power is a dominant one and excludes any conflicting or competing power. The power is "a dominant servitude," or a "a superior navigation easement." While Congress may choose to exercise less than its constitutional power and provide compensation, here the government displaced all competing interests and appropriated the entire flow of the river for the declared public purpose. The Court rejected the argument that the landowner's special water-rights value lies above and beyond the ordinary high-water mark, for here the landowner seeks a value in the flow of the stream, a value that inheres in the government's servitude, and one that Congress can grant or withhold as it chooses. It is no answer to say that only location value is sought to be compensated for, since this special location value is due to the flow of the stream. Nor was it any answer to say that the landowner had interests in the water which were recognized by state law, since the federal domain was involved. The Court leaned heavily on a precedent for the proposition that water power in a navigable stream was not by force of the Fifth Amendment a compensable interest when the United States asserts its easement of navigation.[39] The Court also invoked the rule that since the owner receives no more than indemnity for his loss, his award cannot be enhanced by any gain to the taker, since it is only loss to the owner and not gain to the taker that is compensable.[40] "What the Government can grant or withhold and exploit for its own benefit," said Justice Douglas, "has a value that is peculiar to it and that no other user enjoys. . . . To require the United States to pay for this water-power value would be to create private claims in the public domain."

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[37] Rex Trailer Co. v. United States, 350 U.S. 148 (1956). The Court held that U.S. ex rel. Marcus v. Hess, 317 U.S. 537 (1943) was squarely in point. See Comment, "Statutory Implementation of Double Jeopardy Clauses: New Life for a Moribund Constitutional Guarantee," *Yale Law Journal*, Vol. 65, pp. 339–368 (Jan., 1956).

[38] United States v. Twin City Power Co., 350 U.S. 222 (1956).

The four dissenting justices argued that the proper measure of compensation is the fair market value of the land at the time of the taking, and that this includes recognition of any fair market value of the land due to its riparian character. They stressed the fact that all of the owner's rights were located above and beyond the ordinary high-water mark of the river, and while they conceded that the United States has a right to exercise its navigation servitude without paying compensation, here there is no claim made for payment for any value in the flow of the stream or for any land below the ordinary high-water mark of the river. Since they believed that just compensation includes all elements of value that inhere in the property, all the uses for which the land is suitable should be considered. They insisted that the location of land has always been a primary factor in determining its market value.

In another case[41] the owner of commercially valuable trees along the Mississippi River brought an action to recover from the United States for the value of timber destroyed by the government through its duly authorized agent, a contractor. The trees grew on land located between low- and high-water mark of the River, which since colonial days has been subject to a servitude of the state for use in the construction and maintenance of levees, and which may be used without compensation. Here the United States was cooperating with Louisiana on a levee project, and in the area in question the United States had secured the necessary rights of way without cost from the state. The contractor had given no notice of his intention to clear the trees. The Court of Appeals held that under Louisiana law prior notice is unnecessary to an appropriation of timber for levee purposes, and the Supreme Court agreed with this determination of the local law issue. Since the state, as owner of this servitude, legally could have destroyed the timber without previous notice and without any opportunity for mitigation of losses, and yet be free of liability, the United States, as donee of the state's rights, can exercise them to their full extent without incurring liability, just as the donor could have done. The Court went on to rule that there was no taking within the meaning of the just compensation clause of the Fifth Amendment, since this property had not been taken by the government in the exercise of its power of eminent domain. In effect the timber was "owned" by Louisiana for levee purposes, and the United States succeeded to the ownership by conveyance. Two dissenting justices thought that Louisiana law had been misconstrued; but even as a matter of federal law they would hold that the United States cannot rely on a state-created servitude to justify action which borders on the wanton destruction of property interests of private owners without notice, a requirement deeply ingrained in our jurisprudence. Since two members of the Court disagreed with the rest as to the meaning of the state law, Justice Frankfurter said that definitive judgment ought to be suspended until a pronouncement could be had from the state court on controlling state law.

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[39] United States v. Chandler-Dunbar Water Power Co., 229 U.S. 53 (1913).

[40] United States v. Miller, 317 U.S. 369 (1943).

[41] General Box Co. v. United States, 351 U.S. 159 (1956).

2. THE FEDERAL COMMERCE POWER

Several cases during the 1955 Term dealt with aspects of the federal commerce power. In one the Court held constitutional the Hobbs Act, which makes it a serious federal crime to obstruct or affect interstate commerce by means of extortion, robbery or violence, on the ground that the statute was designed to protect such commerce against injury.[42] It is established, said Justice Reed, "that racketeering affecting interstate commerce was within federal legislative control." The Court also held that the statute was not limited to the taking of the property of another for the extortioner's personal advantage, but also extended to an extortion of money from employers in the form of wages for unwanted, superfluous and fictitious services of laborers.

In another case the Court ruled that as regards the employees of an interstate railroad a state right-to-work law must yield to the policy of the Railway Labor Act insofar as that act permits union shop agreements.[43] Though the Court had no doubt that it is within the police power of a state to prohibit the union shop in the absence of conflicting federal legislation, it was equally clear that Congress may regulate labor relations in interstate industries and adopt all appropriate measures to facilitate amicable settlement of disputes which threaten the service of the necessary agencies of interstate transportation. All the justices agreed with the observation of Justice Douglas that "industrial peace along the arteries of commerce is a legitimate objective," and that

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[42] United States v. Green, 350 U.S. 415 (1956). See John Sherman Myers, "Interstate Commerce—The Constitutional Interpretation of a Non-Constitutional Term," *University of Pittsburgh Law Review*, Vol. 17, pp. 329–345 (Spring, 1956).

[43] Railway Employes' Department, AFL International Assoc. of Machinists v. Hanson 351 U.S. 225 (1956).

"Congress has great latitude in choosing the methods by which it is to be obtained." It was held that the choice by Congress of the union shop as a stabilizing force was an allowable one, though much can be said on either side of the question. This is a matter of policy not for the judiciary to decide. Countering the argument that the right to work is protected by the concept of liberty within the meaning of due process, Justice Douglas said: "One would have to be blind to history to assert that trade unionism did not enhance and strengthen the right to work." The State court's argument that the union shop agreement violated the First Amendment was answered by saying that no such problem was presented in this record, since the only condition of membership was payment of dues and fees, and there was no evidence of any attempt to force ideological conformity.

The most interesting commerce issue was before the Court in two cases in which it was ruled that employees of interstate railroads who work in repair shops, or in shops which construct new cars, or in the office as a clerical employee in charge of filing original tracings of all railroad equipment, were all within the coverage of the Federal Employers' Liability Act.[44] Because there had been uncertainties in the judicial construction of coverage questions, Congress amended FELA in 1939 to extend it to any employee of any carrier "any part of whose duties as such employee shall be the furtherance of interstate or foreign commerce; or shall, in any way directly or closely and substantially, affect such commerce. . . . " The key question was whether those engaged in "new construction" fall within the ambit of interstate commerce. Speaking for the Court, Justice Minton stated that the crucial issue is not whether new construction is interstate commerce, but whether any part of the worker's duties as a railroad employee furthers interstate commerce or in any way directly or closely and substantially affects such commerce. He had no doubt that such new construction is "an integral element in the carrier's total operations," from which it follows that workmen employed to build these cars were performing duties in "furtherance" of interstate commerce. Failure to perform these duties would preclude delivery of cars essential to transportation needs, and impede substantially the carrier's performance of its transportation function. In short, the Court held that the 1939 amendment, which Congress had enacted "to cure the evils of hypertechnical distinctions," swept away the previous distinction made by the courts between employees working on repairs and those working on new construction of railroad facilities.

The Court had no difficulty at all in concluding that a worker employed as a wheel molder in the carrier's foundry, and working on both new and used wheels, and a laborer injured while laying rails in a retarder yard for the purpose of facilitating movement of interstate freight trains, were engaged in operations which were a vital link in the chain of the railroad's function as an interstate carrier. So also the clerical employee in charge of filing tracings was held to be within FELA as a result of an injury which occurred when a cracked window pane in her office blew in upon her. The test for coverage is not whether the employee is engaged in transportation, but rather, whether his function in any way furthers or substantially affects transportation. The benefits of the act, it was made clear, are not limited to those who are exposed to the special hazards of the railroad industry, "to those who have cinders in their hair, soot on their faces, or callouses on their hands." FELA specifically protects "any employee."

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[44] Southern Pacific Co. v. Gileo, 351 U.S. 493 (1956); Reed v. Pennsylvania Railroad Co., 351 U.S. 502 (1956).

Four justices dissented in the case of the clerical employee, and two in the case of the other workers. They thought that the Court read the 1939 amendment in "a merely lexicographical sense," and that the decision would promote a new wave of "sterile litigation." They insisted that the distinction between transportation and non-transportation employees of railroads was basic, and that the 1939 amendment, and the statute as a whole, were designed to protect only those who were peculiarly exposed to injuries because of the nature of their occupation, i.e., the hazardous business of railroading.

3. FEDERAL JUDICIAL POWER

Avoidance of Constitutional Issues. The Court's ability to avoid ruling on constitutional issues was highlighted in *Communist Party of the United States v. Subversive Activities Control Board.*[45] Following prolonged hearings and argument, the Board ordered the Party to register as a "Communist-action" organization, as required by the Internal Security Act of 1950. While the case was pending before the Court of Appeals of the District of Columbia for review, the Party filed a motion for leave to present additional evidence, on the ground that evidence previously unavailable would establish that three of the government's 22 witnesses, Crouch, Johnson and Matusow, all paid informers, had given false testimony. Without denying these allegations the government opposed the motion on the ground that the Board's findings were amply supported by other evidence. The Court of Appeals formally denied the motion without opinion, but in its opinion on the merits it said that the Party had enjoyed at the hearing full rights to cross-examine and present rebuttal testimony, that the issue was merely one of the credibility of witnesses, and that the Board's findings were not to be disturbed unless manifest error had been made. It also held that the challenged testimony was consistent with and supported by masses of other evidence.

By a 6–3 vote the Supreme Court reversed, holding that the Court of Appeals had erred in refusing to return the case to the Board for consideration of the new evidence. Since this non-constitutional issue was enough, it declined to consider any of the serious constitutional problems presented in the briefs. The Court held that the testimony of the three witnesses in question was not inconsequential, for while much of the record was documentary, the human testimony was significant in linking the documentary evidence to the activities of the Party. The direct testimony of Crouch filled 387 pages of the record, that of Johnson 163 pages, and that of Matusow 118. In its annotated report the Board referred to Crouch 36 times, Johnson 25 times, and Matusow 24 times, these references supporting every finding under the eight statutory criteria. Under these circumstances, said the Court, it cannot be assumed that this testimony played no role. In supervising the federal courts, Justice Frankfurter asserted, the Supreme Court must show "fastidious regard for the honor of the administration of justice." Finally, he rejected the contention that there was ample other proper testimony in the record, for, he said, if these three witnesses had in fact committed perjury, the Board must take this fact into account.

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[45] 351 U.S. 115 (1956). See Note, *Georgetown Law Journal,* Vol. 43, pp. 507–511 (March, 1955).

Justices Reed and Minton agreed with Justice Clark who, in a dissenting opinion, counted the pages of cross-examination of the challenged witnesses: for Johnson 194, for Matusow, 112, for Crouch, 810. This showed that the issue of credibility had been thoroughly explored. He also noted that in the Party's 131-page petition for certiorari, only two pages had been devoted to this point, and of a 270-page brief, only four and one-half pages. This proved, in his opinion, that the Party itself regarded the motion in question as relatively unimportant. Justice Clark criticized the Court for disregarding its "plain responsibility and duty" of deciding important constitutional issues, and indeed he asserted that he knew of no case where the Court avoided such issues on this sort of pretext. He warned that the action of the Court did not dispose of the case, but merely delayed decision of the constitutional issues. Finally, he maintained that the disposition of the motion rested in the sound discretion of the Court of Appeals, and that even if the testimony of all three witnesses is omitted from the record, the result would not have been different. Thus the only purpose of this procedural maneuver, Justice Clark asserted, is to gain more time before the order to register can become effective, thus frustrating the congressional purpose "at a most critical time in world history."

Standing to Sue. To prevent overconcentration of broadcasting facilities, the Federal Communications Commission adopted rules providing that licenses for television stations would not be granted to an applicant who had a direct or indirect interest in more than five other stations. The Storer Broadcasting Company, which owned seven standard radio stations, five FM stations, and five television stations, after objecting to the rules before they were adopted, sought review in the Court of Appeals of the District of Columbia. Even though the Company had not been ordered to do or refrain from doing anything directly, a majority of six justices agreed that the Company had standing to sue, and that the agency action was reviewable, since it was a final action, the rulemaking process being complete.[46] A precedent held that one may sue because of the grant of a license to a competitor.[47] The Columbia Broadcasting Company had once been permitted to seek review of FCC chain broadcasting regulations even though CBS had not been ordered to act or refrain from action.[48] The Court held that the challenged regulations aggrieve the Company in a number of ways: the rules operate to control its affairs, for unless they are changed it cannot enlarge the number of its standard or FM stations; the rules endanger its present stations; the Company cannot "cogently plan its present or future operations," or plan to enlarge the number of its standard or FM stations; the purchase of the Company's voting stock by some member of the public could endanger its present structure at any moment. On the merits, however, the Court upheld the rules as being reconcilable with the Communication Act.

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[46] United States v. Storer Broadcasting Co., 351 U.S. 192 (1956).

[47] Federal Communications Commission v. Sanders Bros. Radio Station, 309 U.S. 470 (1940). See Note, "Competitors' Standing to Challenge Administrative Action under the Administrative Procedure Act," *University of Pennsylvania Law Review*, Vol. 104, pp. 843–863 (April, 1956).

The two dissenters disagreed on the issue of standing to sue. Justice Harlan maintained that the regulations in question did not constitute a final order, but merely established standards to be followed by FCC in the future in exercising its licensing powers. Since no present injury of any kind was even alleged, he believed that the complaining party was not aggrieved. All it was asking for was relief against some possible future administrative action for which there would be a complete remedy by appeal. He thought that the Company was being given declaratory relief merely of the burden of applying for a license.

The Court's willingness to make judicial review of administrative determinations available to parties without strict adherence to customary rules regarding standing to sue, in the case of closely regulated industries, was also expressed in a case where it was held that a motor carrier had standing to challenge in court the validity of an ICC regulation, even though no specific agency action was taken directly affecting the particular complainant one way or another.[49]

Diversity Jurisdiction. While living in New York, Bernhardt made a contract of employment with a New York corporation which included a clause that in case of any dispute the parties would submit to arbitration under New York law by the American Arbitration Association, whose determination "shall be final and absolute." Later Bernhardt became a resident of Vermont, and upon being discharged, sued in a Vermont court. The corporation thereupon removed to the federal district court on the ground of diversity, and moved for a stay of proceedings so that the controversy could go to arbitration in New York, alleging that New York law governed the question. The district court ruled that under the *Tompkins* rule[50] the arbitration provision of the contract was governed by Vermont law, and that since under Vermont law an agreement to arbitrate is revocable, it denied the stay. The Court of Appeals reversed on the ground that this was not a matter of substantive law, but rather one of procedure, and therefore not governed by local law. The Supreme Court agreed with the district court that Vermont law was controlling.[51] Noting that when a federal court enforces, as in this instance, a state-created right in a diversity case, it is in substance only another court of the state, Justice Douglas declared that the remedy by arbitration "substantially affects the cause of action created by the State." For, he said, "the nature of the tribunal where suits are tried is an important part of the parcel of rights behind a cause of action. The change from a court of law to an arbitration panel may make a radical difference in ultimate result." For example, arbitration proceeds without trial by jury, and the arbitration body is not bound by the ordinary rules of evidence; arbitrators do not have the benefit of instructions on the law, and need not give reasons for the results; the arbitration panel's record is less complete than that of a court, and judicial review is more limited. The nub of the *Tompkins* rule, Justice Douglas said, is that whether one sues in a federal or state court should not lead to a substantially different result. Thus once again the court blurred the distinction between procedural and substantive law, so far as the *Tompkins* rule is concerned, and held that the crux of the matter is whether the state rule has an important bearing on the outcome of the case. Justice Burton, dissenting alone, thought that this was a procedural and not a substantive matter.

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[48] Columbia Broadcasting Co. v. United States, 316 U.S. 407 (1942).

[49] Frozen Food Express v. United States, 351 U.S. 40 (1956).

[50] Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938).

[51] Bernhardt v. Polygraphic Co. of America, 350 U.S. 198 (1956). See Alfred Hill, "State Procedural Law in Federal Nondiversity Litigation," *Harvard Law Review*, Vol. 69, pp. 66–117 (Nov., 1955).

Contempt of Court. After a grand jury in the District of Columbia indicted Ben Gold for having filed an allegedly false noncommunist affidavit, his attorney, Cammer, sent letters and questionnaires to all grand jurors who were employees of the federal government, asking them whether they might be influenced by bias or fear to indict persons charged with having Communist associations. Thereupon Cammer was convicted of violating a section of the penal code which authorizes federal courts to punish for contempt "misbehavior of any of its officers in their official transactions. . . . " The Supreme Court reversed the conviction on the ground that a lawyer is not an officer of the court within the meaning of this statute.[52] Noting that the statute, which derives from the Contempt Act of 1831, was designed to limit the contempt power of federal courts, Justice Black emphasized that it has been narrowly construed, and that indeed it should be in view of the summary character of contempt proceedings. This Court, he said, has never placed attorneys in the same category as marshals, bailiffs, court clerks or judges, for unlike these groups, a lawyer is in a private profession, important as it is in our system of justice. In general, a lawyer makes his own decisions, follows his own best judgment, collects his own fees, and runs his own business. Furthermore, said Justice Black, the use of the word "officers" for lawyers has always conveyed a different meaning from that applied to officers within the conventional meaning of the term. Nor could he find any reason why the statute should be extended to lawyers. The statute was originally adopted, after the case of Judge Peck, to limit the power of a judge to punish a lawyer by contempt proceedings. In fact, the very next section has ample provision for punishing attempts to influence, intimidate or impede juries, in connection with which Congress expressly required indictment for prosecution.

Federal Review of State Courts. In 1949 Mrs. Walker, then head of her local union, was fired by her employer, a manufacturer of pharmaceutical and biological products, on the ground that she was an active member of the Communist Party and had falsified her application for employment, executed several years earlier. The union sought reinstatement before an Arbitration Board pursuant to a valid collective-bargaining agreement with authorized discharge only for "just cause." The Board held that she had in fact been discharged for union activity, and by a 2–1 vote ordered her reinstatement. The Board found that she was a member of the Communist Party, and had falsified her application for employment, but that the employer knew about this in 1947. It took the position that an employer should not be entitled to carry mutually known grounds of discharge in the hip pocket indefinitely, to be used when convenient, and that in these circumstances the grounds for discharge were "stale." After winning in the trial court and the district court of appeals, the union lost in the California supreme court, which held that specific performance of the arbitration award would violate the public policy of the state. By a 6–3 vote the Supreme Court dismissed a writ of certiorari on the ground that no federal question was involved.[53]

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[52] Cammer v. United States, 350 U.S. 399 (1956).

Speaking for the Court, Justice Clark brushed aside the argument that the state supreme court's view of public policy involved federal constitutional rights with the observation that the Court reviews judgments and not statements in opinions. This means, he said, that the Court should not pass on the federal questions discussed in the opinion below where it appears that the judgment rests on adequate state grounds. The state court's ruling that the "just cause" provision of the contract permitted discharge on the ground of membership in the Communist Party, Justice Clark declared, involved only California's construction of a local contract under local law. Thus no substantial federal question was presented. Chief Justice Warren and Justice Black went along with Justice Douglas, who in dissent argued that the state court's decision violated the First Amendment, which in his judgment forbids any government to adopt a political test for workers in factories. He insisted that unless and until they violate laws, Communists are entitled to the same civil rights as other citizens, including freedom of political thought. Pointing out that there was no evidence at all of any criminal act in this case, he asserted that he did not believe that Communists can be proscribed from making a living on the assumption that the danger of sabotage is too great for a critical industry to bear.

A more complicated issue of federal review of state decisions was involved in *Durley v. Mayo*.[54] Durley was convicted in a Florida court in 1945 on six counts of cattle stealing and given five years on each count, to be served consecutively, or thirty years in all. He did not appeal his conviction, but later on he tried various post-conviction remedies without success. He petitioned for *coram nobis* in 1949, and for *habeas corpus* in 1949 and 1952, alleging, among other things, violation of federal constitutional rights; the state supreme court affirmed adverse rulings without opinion. Finally, in 1955 he filed a new petition for *habeas corpus* in the Florida supreme court, claiming, among other things, a violation of Fourteenth Amendment due process rights, but the court denied relief without opinion on the ground that the petitioner had failed to show probable cause. Florida maintained that the Supreme Court had no jurisdiction to review on the ground that the denial in 1955 of *habeas corpus* may have rested on one or both of two adequate state grounds: (1) the issues presented in 1955 had been rendered *res judicata* by the 1952 litigation, for a Florida statute provides that while a judgment denying *habeas corpus* remains in force, no person shall be at liberty to secure another writ for the same cause or raise the same matter by any other proceeding except by writ of error or through an action for false imprisonment; (2) in any event, the federal issues cannot be raised in 1955 because the petitioner had failed to raise them in the prior proceeding, when he had a fair and adequate chance to do so, as required by state decisional law.

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[53] Black v. Cutter Laboratories, 351 U.S. 292 (1946).

[54] 351 U.S. 277 (1956).

By a 5–4 vote the Court dismissed the petition for certiorari for lack of jurisdiction. The rule is, said Justice Burton, that where the highest court of a state delivers no opinion, and it appears that the judgment might have rested on a non-federal ground, the Supreme Court has no jurisdiction to review. Before it will review a state court, it must appear affirmatively from the record that the federal question was presented to the highest state court having jurisdiction and was essential to the decision there. Where the decision of the state court might have been on either a state or federal ground, and the state ground is sufficient to sustain the judgment, the Court will not undertake to review it. On the other hand, if the independent state ground was not a substantial or sufficient one, it will be presumed that the state court based its judgment on the federal question, and the Supreme Court will take jurisdiction. In its most recent cases, Justice Burton found, the Supreme Court of Florida has held that on an original application for *habeas corpus* the petitioner may not raise issues which have been raised in prior proceedings, and without good reason shown cannot raise issues which he could have raised in any prior proceedings. Thus the highest court of Florida might have rested its denial of the 1955 petition on the sufficient local law ground that federal issues presented in 1955 had been raised previously, or at the very least could have been raised in the prior proceeding. Finally, while the Florida court has discretion to make an exception to the *res judicata* doctrine because of an "unusual situation," under these facts it was concluded that the state court was not obliged to read a similar exception into an act of the legislature. It follows from all this that there was room for the belief that the decision below rested on adequate state grounds.

Justice Douglas, speaking for the dissenters, pointed out that since the state court, in the 1955 proceedings, denied the petition for *habeas corpus* without a hearing and without requiring the defendant to respond, the allegations should be accepted as true. If true, the charge that the conviction had been obtained by the use of testimony known to the prosecution to be perjured shows a violation of due process and indeed reveals a "shocking case of miscarriage of justice." He read the state decisions differently, concluding that *res judicata* is not such a rigid doctrine in Florida, since the state's supreme court had only recently ruled that it would not apply it where it would defeat the ends of justice. Furthermore, he felt that the petitioner's federal claims were rejected not on *res judicata* grounds, but on their merits.

Judicial Commitment of the Mentally Incompetent. Congress enacted a statute in 1949 providing for procedures by which federal courts may determine the mental competence of persons in custody after arrest and before sentence, or before the end of the probation period, or during confinement in jail, or just before release from incarceration. After hearing, persons so found incompetent are committed to the Attorney General for custody until their condition changes. A prisoner's right to establish eligibility for release by *habeas corpus* is reserved. The Court had no doubt that this statute was an assertion of authority auxiliary to incontestable national power clearly constitutional under the Elastic Clause, for this statute was designed to implement the power of the national government to prosecute for federal offenses.[55]

II. QUESTIONS OF STATE POWER

1. DUE PROCESS OF LAW

Fair Trial. Several criminal appeals from state courts during the 1955 Term presented interesting due process issues.[56] Three Negroes who had been sentenced to death in Louisiana for rape challenged in their appeals the composition of the grand juries which had indicted them, on the ground that Negroes had been systematically excluded from them. It is, of course, well established now that this is a violation of the Fourteenth Amendment. But the statute-law of Louisiana provides that objections to the grand jury must be made before the end of the third judicial day following the adjournment of the grand jury, or before trial, whichever date is earlier, and that in any event objections to the grand jury must be made before arraignment. The Supreme Court upheld this requirement, by a 6–3 vote, ruling that on its face the statute does not raise an insuperable barrier to one's claiming his federal rights, the test being whether the defendant had a reasonable opportunity to have the issue of the claimed right heard and determined by a state court.[57] It was also noted that in Louisiana a motion to quash an indictment is a short, simple document easy to prepare in a brief time. In the case of one of the petitioners, the Court ruled that appointment of an experienced lawyer by the trial judge to represent the defendant on the very day that the grand jury expired was in sufficiently good time so that the application of the statute was not unreasonable. In the case of a second, where failure to make timely motion to quash was due to the fact that the defendant had fled the state and become a voluntary fugitive from justice, the Court held that this did not excuse a failure to resort to the state's reasonable time limitation for the assertion of the federal constitutional right. In the third case, the Court ruled that the mere fact that appointed counsel did not file a timely motion to quash did not establish the fact that the lawyer was incompetent, for a lawyer has a wide latitude of judgment for strategy and maneuver. The three dissenting justices argued that these defendants had not had a reasonable opportunity to challenge the composition of the grand juries.

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[55] Greenwood v. United States, 350 U.S. 366 (1956).

[56] See Albert R. Beisel, Jr., *Control over Illegal Enforcement of the Criminal Law: Role of the Supreme Court* (Boston, 1955); Ronald B. Boyce, "Suppressed and Perjured Evidence: A Denial of Due Process," *Utah Law Review*, Vol. 5, pp. 92–97 (Spring, 1956); Charles W. Quick, "A Public Criminal Trial," *Dickinson Law Review*, Vol. 60, pp. 21–35 (Oct., 1955); Note, "The Uniform Post-Conviction Procedure Act," *Harvard Law Review*, Vol. 69, pp. 1289–1302 (May, 1956).

[57] Michel v. Louisiana, 350 U.S. 91 (1955).

The Court was unanimous, however, in sustaining the appeal of a Georgia Negro who had failed to conform to a very old rule of state practice which requires the accused to challenge the grand jury before indictment.[58] The accused, a semi-literate man of low mentality, was indicted by a grand jury that had been impaneled eight days before his arrest, and he had been arrested and held in jail for three days until he was indicted. The grand jury had adjourned the day before his arrest, but it was reconvened two days later by an order which did not list him as one against whom a case would be presented. Counsel was appointed for him the day following the indictment and the motion to quash was made six days later. The Court held that the right to object to a grand jury presupposes an opportunity to exercise that right, and that under these circumstances it was utterly unrealistic to say that this uncounseled defendant had an opportunity to raise his objection during the two days he was in jail before indictment. On the merits the Court held that the petitioner had made out a strong *prima facie* case of arbitrary exclusion of Negroes from grand juries, and that it was not enough for the state officials merely to deny discrimination. Thus the Court held that Georgia should have considered the merits of the petitioner's motion to quash.

A man who had been convicted of murder in a Pennsylvania court after a jury trial charged in a federal *habeas corpus* proceeding that he had been tried in an atmosphere of hysteria and prejudice, in violation of his due process rights. The jury had been properly isolated from outside contacts, the courtroom had never been overcrowded and was always orderly, there had been no disturbances or untoward incidents in the courtroom, and the proceedings had been reported factually in the newspapers. A judge who had just previously presided over the trial of the petitioner's two confederates, and who had commented publicly that the jury's death sentence was just, sat in the courtroom during the petitioner's trial, often on the bench, and on one occasion even participated briefly in the discussion of a legal point regarding the admissibility of evidence. A majority of six justices ruled that the petitioner had failed to sustain the burden of proving essential unfairness in the trial.[59] They noted that he had not used up his peremptory challenges, that he had not asked for a change of venue or for a continuance, and that the issue had not even been raised until almost three years after the trial. The Court stressed that the petitioner had been given a full hearing by the district court, and that the judge, as the trier of facts, had found the trial proper. The Court also found that it had not been

[58] Reece v. Georgia, 350 U.S. 85 (1955).

[59] U.S. ex rel. Darcy v. Handy, 351 U.S. 454 (1956).

established that the presence of the second judge resulted in actual prejudice. The three dissenting justices took the position that in view of the special atrociousness of the crime, the outraged feelings in a small, rural community, and the fact that the outside judge had just presided over the trial of the two confederates, and was well known, the jury must have been conscious of his unusual interest in the case. Justice Harlan said that the Court ought to be "especially scrupulous in seeing to it that the right to a fair trial has not been jeopardized by the conduct of a member of the judiciary."

In an application for *habeas corpus* in a federal district court, a California prisoner who had been convicted of murder claimed that his automatic appeal to the California supreme court had been heard upon a fraudulently prepared transcript of the trial proceedings. The official court reporter had died before completing the transcript of his stenographic notes of the trial, and the petitioner alleged that the district attorney and the substitute reporter, by corrupt arrangement, had prepared a fraudulent transcript. The Supreme Court, by a 5–3 vote, held that the district judge had committed error in dismissing the application as not stating a cause of action without a hearing.[60] For since the charge of fraud which the petitioner made set forth a denial of due process, the application should not have been dismissed summarily.

Notice. The Court held that it was a violation of due process for a state to foreclose and sell the property of a mental incompetent, for tax purposes, upon notice to the incompetent while without a guardian.[61] It is both elementary and fundamental that due process requires notice reasonably calculated under the circumstances to apprise interested parties of the action and give them a chance to present objections.

Right to Counsel. The Court had occasion to review a number of basic legal propositions in the case of a man who had pleaded guilty in 1945, in a Pennsylvania court, to 30 charges, and had been sentenced to a very long term in jail. Eight years later he filed a petition for *habeas corpus* in a state court, alleging that the plea of guilty had been coerced, and that he had not been represented by counsel and had not been informed of his right to counsel. The petitioner alleged that he had only had six years of schooling, that he was 21 years old when arrested, that he had had little previous experience with criminal procedure, that after arrest he had been held incommunicado for three days, during which time the police had threatened him, and subjected him to 72 hours of intermittent questioning, and that neither the judge nor the prosecutor had informed him of the seriousness of the charges. He had been arrested two years earlier, pleaded guilty, and was sentenced to jail for a period of six to 12 months. The district attorney filed an answer denying all the allegations, and arguing that the petitioner was tardy in making this challenge, and asked for summary dismissal of the petition on the ground that it would be a waste of time and money to give the prisoner a hearing. Accordingly, the court dismissed the petition summarily without a hearing. The Supreme Court agreed by unanimous vote that the petitioner was entitled to a hearing.[62] Justice Black pointed to prior decisions to establish that a conviction based on a confession extorted by violence or mental coercion is offensive to due process; that where there has been no intelligent and understanding waiver of counsel, and rights could not have been fairly protected without counsel, then due process requirements have not been satisfied; and that where denial of constitutional rights is alleged in an appropriate proceeding by factual allegations not patently frivolous or false in view of the whole record, a *habeas corpus* petition ought not to be dismissed summarily merely on the denial of a state prosecuting officer. Since there was here a sharp dispute as to the facts material to a determination of the constitutional question involved, this was the very sort of dispute which should be decided only after a hearing. The number and complexity of the charges against the prisoner, and their seriousness, all tend to create a strong conviction that a layman needed the advice of counsel. The mere fact that the petitioner had had occasion to plead guilty to an offense two years earlier did not prove that he had the capacity to defend himself against these 30 charges. Finally it was held that the passage of eight years before filing for *habeas corpus* was immaterial, since one never loses his remedy if held in flagrant violation of constitutional rights.

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[60] Chessman v. Teets, 350 U.S. 3 (1955). That Chessman is still alive is something of a legal miracle, and illustrates how many legal maneuvers may be available to persons convicted of crime. Since his conviction Chessman has written two books, *Cell 2455 Death Row* (New York, 1954), and *Trial by Ordeal* (New York, 1955), and is well on the road to becoming an established author, all on borrowed time.

[61] Covey v. Town of Somers, 351 U.S. 141 (1956).

Self-Incrimination and Due Process. One of the most prominent cases of the year was *Slochower v. Board of Higher Education of New York City*,[63] decided by a 5–4 vote of the Court. At issue was the constitutionality of Section 903 of the Charter of the City of New York, which provides that whenever an employee of the city utilizes the privilege against self-incrimination to avoid answering a question relating to his official conduct, he shall be discharged and shall not be eligible for future employment. Slochower, an associate professor at Brooklyn College, invoked the Fifth Amendment before the Internal Security Subcommittee of the Senate Judiciary Committee. He said that he was not a member of the Communist Party and was willing to answer all questions regarding memberships, associations and beliefs since 1941, but he refused to answer questions about his memberships during 1940 and 1941 on the ground of self-incrimination. Following these events he was fired. Slochower had 27 years' experience as a college teacher, and was entitled to tenure under state law, according to which he could be discharged only for cause, after notice, a hearing, and an appeal. But the Court of Appeals of New York held that Section 903 of the Charter means that assertion of the Fifth Amendment privilege is equivalent to a resignation, and since dismissal was automatic, there was no right to charges, notice, hearing, and appeal.

By a bare majority of the Court the New York decision was reversed.

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[62] Pennsylvania ex rel. Herman v. Claudy, 350 U.S. 116 (1956).

[63] 350 U.S. 551 (1956).

Speaking for the Court, Justice Clark said that "to state that a person does not have a constitutional right to government employment is only to say that he must comply with reasonable, lawful, and nondiscriminatory terms laid down by the proper authorities." He noted that in both the *Adler*[64] and *Garner*[65] cases the Court had emphasized that the state must conform to the requirements of due process, and that in the *Wieman*[66] case a loyalty oath for public employees was held invalid because it based employability solely on the fact of membership in certain organizations, even though membership may be innocent. It was arbitrary, and therefore contrary to due process, for the state to bracket the innocent with the guilty. Furthermore, contrary to the Board's contention, the Court of Appeals had ruled that the privilege had been properly invoked, and that no inference of Communist Party membership could be drawn from a refusal to testify. Since, therefore, no inference of guilt was possible from the claim that Slochower had made before the committee, it follows that the discharge falls of its own weight as being wholly without support. It is arbitrary action forbidden by due process.

Justice Clark condemned "the practice of imputing a sinister meaning to the exercise of a person's constitutional right under the Fifth Amendment. The right of an accused person to refuse to testify, which had been in England merely a rule of evidence, was so important to our forefathers that they raised it to the dignity of a constitutional enactment, and it has been recognized as 'one of the most valuable prerogatives of the citizen.' . . . The privilege against self-incrimination would be reduced to a hollow mockery if its exercise could be taken as equivalent either to a confession of guilt or a conclusive presumption of perjury. . . . A witness may have a reasonable fear of prosecution and yet be innocent of any wrongdoing. The privilege serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances." He drew attention to the automatic operation of Section 903, noting that no consideration is given to such matters as the subject matter of the questions, the remoteness of the period to which they are directed, the possible justification for invoking the privilege, mistake, or reliance upon legal advice conscientiously given. "The heavy hand of the statute falls alike upon all who exercise their constitutional privilege, the full enjoyment of which every person is entitled to receive." It is one thing, said Justice Clark, for the city's authorities to inquire themselves into Slochower's fitness. It is quite another to base his discharge entirely upon events occurring before a federal committee, especially in view of the fact that the questions which he refused to answer were asked for a purpose wholly unrelated to his college functions. Finally, Justice Clark made it clear that this did not mean that Slochower had a constitutional right to be a professor at Brooklyn College. The state admittedly has broad powers to select and discharge its employees, and it may well be that a proper inquiry would show that Slochower's continued employment was not consistent with the best interests of the state. But there had been no such inquiry here.

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[64] Adler v. Board of Education, 342 U.S. 485 (1952).

[65] Garner v. Board of Public Works, 341 U.S. 716 (1951).

[66] Wieman v. Updegraff, 344 U.S. 183 (1952).

Speaking for three of the dissenters, Justice Reed maintained that the city has reasonable ground to require its employees either to give evidence about official conduct within their knowledge or to give up their positions. In his view Section 903 does not in fact take the questions asked as confessed. Like other employers, he argued, cities may reasonably conclude that a refusal to furnish appropriate information is enough to justify a discharge. Avoidance of the public duty to respond to official inquiries can properly be considered as evidence of the employee's lack of fitness to hold certain official positions, and especially that of a teacher of the youth. Dissenting separately, Justice Harlan maintained that the Court had misconstrued Section 903, since in his judgment it did not raise a presumption of guilt, and the Court of Appeals had said as much. It was the exercise of the privilege itself that was the basis for the discharge.

Due Process and Taxation. In *International Harvester Credit Corp. v. Goodrich*[67] the Court upheld a New York tax law which gives state highway tax liens priority over the rights of conditional vendors. A conditional vendor who had to repossess several trucks claimed that as applied to him the tax liens denied due process insofar as the liens applied to taxes based on the carrier's operation of other trucks and to taxes incurred before and during the time the carrier operated the particular trucks belonging to him. The tax in question is a highway use tax on motor carriers operating heavy vehicles on the public highways. The Court pointed out that there was no doubt that the state may impose and enforce a lien covering all taxes owed to it by a carrier for the privilege of using the state's highways, where the lien applies to vehicles owned by the carrier free of encumbrances. The state has a "prerogative right" to impose a statutory lien for delinquent taxes upon the taxpayer's property, and in dealing with such matters the state is entitled to exercise a wide discretion. In this case, it was noted, the use of the highways had been precisely the same as it would have been if the carrier had held unencumbered title to the trucks. Justice Burton suggested that the New York law could be regarded as a regulation of the use of conditional sales agreements within the state, as in the nature of a supplement of the state's uniform conditional sales act. This the state has an unquestionable right to do. Since it is obvious that vendors of trucks, as well as carriers, derive substantial benefits from the state's construction and maintenance of expensive highways for heavy traffic, the lien is reasonable. Finally, it was noted that the act did not destroy the efficacy of conditional sales financing, but rather it indicated that conditional vendors ought to get assurances from carrier-customers that the latters' use taxes are not in arrears. Two justices dissented insofar as the tax related to the period antedating the conditional sale, because they felt that the creditor had no means of safeguarding himself against the enforcement of this indebtedness to the state.

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[67] 350 U.S. 537 (1956).

2. EQUAL PROTECTION OF THE LAWS

During the 1955 Term most judicial activity regarding the equal protection problem of school segregation was at the trial court level. In Florida's *Hawkins* case,[68] the Court held, in a very brief *per curiam* unanimous opinion, that decrees involving graduate study do not present the problems of public elementary and secondary schools, and that the second decision in the *Brown* case,[69] which implemented the first, had no application to a Negro applying for admission to a state law school. The Court could find no reason for delay, and held that the applicant was entitled to prompt admission under the rules and regulations which applied to all other qualified candidates for admission. In addition, the Court affirmed, without opinion or the citation of authority, a judgment of the Court of Appeals for the Fourth Circuit which held that the teaching of the *Segregation Cases*[70] applied to racial segregation at public beaches,[71] and in a similar fashion the Court extended the doctrine to public golf courses.[72] In another case the Court dismissed summarily, with a Delphic citation of only one precedent,[73] the relevance of which was clouded, an appeal from a judgment of the Court of Appeals for the Fourth Circuit which held that a South Carolina law requiring segregation on local buses was invalid under the Equal Protection Clause.[74] It was not at all clear whether the Supreme Court's action was for the reason that an appeal does not lie from a remand order of the Court of Appeals, as not being an appealable final judgment, or because the appeal was trivial. The general impression was that the Supreme Court dismissed the appeal because there was obviously no substance to the claim that segregation on local buses was compatible with the present-day interpretation of the Equal Protection Clause. The Court also had an opportunity to rule on the constitutionality of Virginia's anti-miscegenation law, but for technical reasons it remanded the case without opinion,[75] and later refused to review the judgment of the state's highest court because the case was "devoid of a properly presented federal question."[76]

There was a great deal of discussion in the learned journals of the school segregation decision and the problems growing out of efforts to implement the Court's decree.[77] Special attention should be drawn to the appearance in February, 1956, of the first number of a new bi-monthly *Race Relations Law Reporter*, published by the Vanderbilt University School of Law with the support of a grant from the Fund for the Republic.[78] This publication contains an invaluable presentation of court cases, legislation, orders and regulations, as well as special articles, on all current legal aspects of race relations.

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[68] Florida ex rel. Hawkins v. Board of Control, 350 U.S. 413 (1956).

[69] Brown v. Board of Education of Topeka, 349 U.S. 294 (1955). See this REVIEW, Vol. 50, pp. 91–93 (March, 1956).

[70] Brown v. Board of Education of Topeka, 347 U.S. 483 (1954); Bolling v. Sharpe, 347 U.S. 497 (1954).

[71] Mayor and City Council of Baltimore City v. Dawson, 350 U.S. 877 (1955). For the opinion below see 220 F. 2d 386 (1955).

[72] Holmes v. City of Atlanta, 350 U.S. 879 (1955). For the opinion below see 223 F. 2d 93 (5th Cir. 1955).

[73] Slaker v. O'Connor, 278 U.S. 188 (1929).

[74] South Carolina Electric & Gas Co. v. Flemming, 351 U.S. 901 (1956). For the opinion below see 224 F. 2d 752 (1955).

[75] Naim v. Naim, 350 U.S. 891 (1956).

[76] Naim v. Naim, 350 U.S. 985 (1956).

[77] See: Alfred H. Kelly, "The Fourteenth Amendment Reconsidered: The Segregation

An extremely interesting and novel equal protection issue was disposed of by a 5–4 vote in *Griffin v. Illinois*.[79] Following conviction in an Illinois court for armed robbery, Griffin filed a motion in the trial court asking for a certified copy of the entire record, including the transcript, without cost, alleging indigence. Under Illinois law, in order to get full direct review of alleged errors by writ of error, it is necessary for the defendant to furnish the appellate court with a bill of exceptions. Illinois concedes that it is sometimes impossible to prepare the bill of exceptions without a transcript of the trial proceedings. Under Illinois practice, indigent defendants who have been sentenced to death and indigents who seek appellate review of constitutional questions may secure free transcripts at county expense; in all other criminal cases the defendant must purchase the transcript, whether indigent or not. Since Griffin alleged nonconstitutional errors his petition was dismissed. In the Supreme Court argument the state conceded that Griffin needed a transcript in order to get adequate appellate review of alleged trial errors, and it was not asserted that the petition was late or that the allegations of trial errors were insufficient. Thus it appeared that the only reason why Griffin could not get adequate review of trial errors was his poverty. Accordingly, the Court held for Griffin.

Speaking for a bare majority of the Court, Justice Black noted that the provision of equal justice for the poor and the rich, the weak and the powerful, is an age-old problem, but that due process and the equal protection concept call for procedures in criminal trials which allow no invidious discriminations between persons and groups. Thus it follows that "in criminal trials a State can

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Question," *Michigan Law Review*, Vol. 54, pp. 1049–1086 (June, 1956); Alexander M. Bickel, "The Original Understanding and the Segregation Decision," *Harvard Law Review*, Vol. 69, pp. 1–65 (Nov., 1955); Symposium on "The Doctrine of Interposition," *Journal of Public Law*, Vol. 5, pp. 1–109 (Spring, 1956); Symposium on "Racial Desegregation and Integration," *Annals of the American Academy*, Vol. 304, pp. 1–143 (March, 1956); Symposium on "Integration, Suffrage and Civil Rights," *Lawyers Guild Review*, Vol. 16, pp. 45–94 (Summer, 1956); Robert J. Harris, "The Constitution, Education, and Segregation," *Temple Law Quarterly*, Vol. 29, pp. 409–433 (Summer, 1956); Ernst Borinski, "The Emerging Case Law in the Segregation Decisions of the Supreme Court," *University of Pittsburgh Law Review*, Vol. 17, pp. 416–436 (Spring, 1956); Comment, "Legal Sanctions to Enforce Desegregation in the Public Schools: The Contempt Power and the Civil Rights Acts," *Yale Law Journal*, Vol. 65, pp. 630–659 (April, 1956); Robert B. McKay, "'With All Deliberate Speed': A Study of School Desegregation," *New York University Law Review*, Vol. 31, pp. 991–1090 (June, 1956); Walter White, *How Far the Promised Land?* (New York, 1955). For defenses of the pro-segregationist point of view see: Herman E. Talmadge, *You and Segregation* (Birmingham, 1955); Thomas R. Waring, "The Southern Case against Desegregation," *Harper's*, Vol. 212, pp. 39–45 (Jan., 1956).

[78] The subscription rate is $3.00 for one year, and $5.00 for two. The address: Vanderbilt University, Race Relations Law Reporter, Nashville 5, Tennessee.

[79] 351 U.S. 12 (1956).

no more discriminate on account of poverty than on account of religion, race, or color." He could find no meaningful distinction between a rule denying the poor the right to defend in a trial court, and one effectively denying the poor an adequate appellate review accorded to all who have enough money. It is true, he held, that a state is not required by the federal Constitution to provide appellate review at all, but if it does, it cannot discriminate against defendants because of their poverty. All states now have some method of appeal from criminal convictions, and statistics show that a substantial proportion of criminal convictions are reversed by state appellate courts. "Thus to deny adequate review to the poor means that many of them may lose their life, liberty or property because of unjust convictions which appellate courts would set aside." And Justice Black added: "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." Finally, it was made clear that the Court was not deciding that Illinois must buy a transcript in every case where the defendant cannot afford it, since the state may find some other means of affording adequate review.

Justice Frankfurter agreed on the merits, characterizing the Illinois practice as "a squalid discrimination," but he wrote a separate concurring opinion to emphasize that this decision announced a new ruling, and to warn that there must be many convicts in Illinois prisons under unappealed sentences who will now find the basis for a claim of a denial of a federal right. Accordingly, he asked the Court not to indulge in the fiction that the law now announced had always been the law, and that those who did not avail themselves of it had waived it. "It is much more conducive to law's self-respect," he asserted, "to recognize candidly the considerations that give prospective content to a new pronouncement of law."

In a joint dissenting opinion, Justices Burton and Minton argued that the Court had always been committed to a policy of minimum interference with state rules of procedure, and has always recognized widely differing but locally approved procedures. They thought it was reasonable for the state to distinguish between capital and lesser offenses, since this was a universal experience. Furthermore, they argued that Illinois was not bound to make defendants economically equal before its bar of justice, and that while that may be desirable social policy it is not commanded by the Constitution. They also warned that Justice Black's opinion was not limited to the future, but also applied to past convictions. In a separate dissenting opinion Justice Harlan took the position that the record of this case was inadequate, and did not present the constitutional question in a clean-cut, concrete form, for it was not clear to him whether the transcript was required by Illinois law, or whether the difficulty was merely that as a matter of fact Griffin could not prepare an adequate bill of exceptions without one. According to the appellant's tabulation, only 29 states now provide free transcripts as of right to indigents convicted of non-capital crimes. Justice Harlan therefore warned that the Court's sweeping constitutional pronouncement will touch the laws of 19 states and create a host of problems regarding the status of an unknown multitude of indigent convicts.

On the merits he denied that equal protection requires Illinois to give to some what it requires others to pay for. As for the due process issue, he maintained that Illinois' policy of economy may be unenlightened, but certainly not capricious or arbitrary, pointing out that even the United States didn't provide for free transcripts until 1944.

3. STATE POWER AND THE COMMERCE CLAUSE

A controversy reached the Court arising from the prolonged strike in Wisconsin against the Kohler Company, which was admittedly subject to the National Labor Relations Act, the Company having complained to the state Employment Relations Board of mass picketing, interruption of free use of highways, prevention of people from entering the plant, coercion and threats, on the part of the union.[80] By a 6-3 vote the Court rejected the union's contention that whether or not there had been violence was immaterial, since the state had no jurisdiction to enjoin the alleged conduct under its own labor act, because such conduct would be an unfair labor practice under the national act. The Court agreed that the alleged conduct of the union was a violation of the national act, and that the National Labor Relations Board could have issued an order like that of the state board. And of course, under the Commerce Clause Congress may regulate all labor controversies in or affecting interstate commerce; and if Congress occupies the field, then state action may be precluded. The Wagner Act of 1935 made no provision for enjoining union activities as constituting unfair labor practices, so that, as held in the *Allen-Bradley* case,[81] a state was free to enjoin such practices as mass picketing, obstruction of streets, violence and threats. The Taft-Hartley Act of 1947 recognized that unions might engage in unfair labor practices, and gave authority to the NLRB to forbid them. Nevertheless the Court concluded that Taft-Hartley was not intended to provide the exclusive method of controlling violence, even against employees. It held that the violence in the Kohler situation was not beyond the state's criminal power, and that the state interest in law and order precludes a contrary interpretation, and noted that Senator Taft had said that the new federal prohibition of union violence would not exclude state action. The Court also refused to say that only the general state criminal law regarding violence was applicable, and not state labor relations statutes, indicating that Congress was aware of such statutes as Wisconsin's when it enacted Taft-Hartley. The decisive consideration was the dominant interest of the states as "the natural guardians of the public against violence."

Chief Justice Warren and Justice Black agreed with the dissenting views of Justice Douglas, who argued that the state's administrative remedy duplicated the administrative remedy prescribed by Congress and reached the very same conduct. He thought it had been settled in the *Garner* case[82] that a state court could not enjoin action which was subject to an unfair labor proceeding under the federal act. The majority view, he warned, was "pregnant with potentialities of clashes and conflicts." He agreed that states may control violence and invoke their criminal law to the hilt, but he insisted that they are not free to permit their administrative agencies to enjoin conduct that Congress had authorized a federal agency to enjoin.

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[80] United A.A. & A.I. Workers v. Wisconsin Empl. Rel. Brd., 351 U.S. 266 (1956). See Charles H. Anderson, "State Regulation of Interstate Commerce," *Dickinson Law Review*, Vol. 61, pp. 1–28 (Oct., 1956).

[81] Allen-Bradley Local, U.E.R.M.W. v. Wisconsin Empl. Rel. Brd., 315 U.S. 740 (1942).

On the other hand, the Court ruled that as regards employers subject to the National Labor Relations Act a state court may not enjoin peaceful picketing of the employer's premises, undertaken for the purpose of securing union recognition,[83] or enjoin union conduct taking the form of a secondary boycott which was within the exclusive jurisdiction of the National Board.[84]

Finally, the state's interest in aspects of interstate commerce was upheld in *Collins v. American Buslines, Inc.,*[85] and this time by a unanimous vote. Collins, whose home was in Los Angeles, and who was regularly employed for some years as a bus driver on the Los Angeles-Phoenix route, was killed in an accident in Arizona. His wife applied to the Industrial Commission of Arizona for workman's compensation under the Arizona act, but the Commission ruled against her on the ground that since Collins had been covered in California and was not regularly employed in Arizona, it lacked jurisdiction. On review, the Supreme Court of Arizona rejected this construction of the Arizona act, but affirmed because in its view the Commerce Clause precludes recovery since Collins was covered by the California act, and to require his interstate employer to insure also in Arizona would place an undue burden on interstate commerce. The Supreme Court disagreed, holding that whatever financial burden a judgment for the petitioner cast upon the carrier or on the state's fund was too insignificant, as compared with the interest of the state in affording remedies for injuries committed within its boundaries, to warrant ousting Arizona's jurisdiction. The state's power is not dislodged so long as Congress has not taken over the field of remedies for injuries of employees on interstate buses, as it has done in the case of employees of interstate railroad carriers.

4. INTERGOVERNMENTAL RELATIONS

Intergovernmental Taxation. The Court ruled that in computing an annual corporate franchise tax based on net worth, a state may include the value of federal bonds held by the corporation.[86] The Court rejected the argument that this was in reality a direct property tax on immune federal obligations, emphasizing that the statute expressly declared this to be a franchise tax, and that the state's highest court on independent examination had found this to be a bona fide franchise tax. Taxes on corporate franchises have been upheld consistently even though measured by a yardstick that includes tax-exempt income, absent discrimination against federal obligations.

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[82] Garner v. Teamsters, C. & H. Local Union, 346 U.S. 485 (1953).

[83] United Mine Workers of America v. Arkansas Oak Flooring Co., 351 U.S. 62 (1956).

[84] Teamsters Union v. N.Y., N.H. & H.R. Co., 350 U.S. 155 (1956).

[85] 350 U.S. 528 (1956).

[86] Werner Machine Co. v. Director of Division of Taxation of New Jersey, 350 U.S. 492 (1956).

Under authority of the Military Leasing Act of 1947 and the Wherry Military Housing Act of 1949 the United States leased certain land located on an air force base in Sarpy County, Nebraska, for 75 years, to a private housing corporation. The question arose whether the state had the power to tax the personal property interests of the lessee. The issue was wholly one of statutory construction, the Court holding, by a 5–4 vote, that Section 6 of the Military Leasing Act, which authorized state and local taxation of lessees' interests, applied also to leases made under the authority of the Wherry Military Housing Act.[87] The Court's majority ruled that while Congress had not expressed itself unequivocally, the doubt should be resolved in favor of taxability. The Court also ruled that the state could validly measure the tax by the full value of the buildings and improvements, pointing out that whereas the lease ran for 75 years, buildings and improvements have an estimated useful life of 35 years, so that the housing company will enjoy the entire worth of the property. Though the government retained some powers of control over rent and selection of tenants, and supplied the insurance, the Court refused to believe that the company was merely a "managing agent." "This contention," said Justice Frankfurter, "would certainly surprise a Congress which was interested in having private enterprise and not the Government conduct these housing projects." The four dissenting justices took the position, largely on the basis of legislative history, that Congress did not intend to permit local taxation because that would increase the cost of the housing projects and hamper the federal program. They thought it important that consent to tax had not been given by plain language, and that the majority had resorted to "adumbration and reasoning from elaborate implication" to reach its conclusion. They declared that the doctrine of sovereign immunity is so deeply rooted that amenability to local taxation requires a clear congressional mandate. They also thought that even if the property were taxable, it should not be at full value, since in the light of the government's interests, the company was little more than a managing agent.

Full Faith and Credit. Armstrong v. Armstrong[88] presented a rather novel divorce question for decision. While residing in Florida the husband filed suit for divorce from his wife, who had left him and gone to reside in Ohio. The wife was not served personally, and did not appear in person or by counsel in the Florida suit, service being constructive only. The Florida court gave the husband the divorce, and since the wife did not appear and make out a case for need of alimony, it decreed that no award of alimony be made. Later on the wife started a suit in Ohio for both divorce and alimony, but the husband appeared and set up the Florida divorce as a defense. The Ohio court denied the wife a divorce because Florida had already given the husband a divorce, but granted the petition for alimony. On appeal the Supreme Court rejected the husband's contention that the Ohio courts had denied full faith and credit to the Florida decree. The Court held rather that the Florida court did not purport to adjudicate the absent wife's right to alimony, and consequently did not foreclose the Ohio courts from doing so. Thus the Supreme Court did not reach the constitutional question. From an examination of the record it concluded that the husband had not even sought a decree in Florida holding the wife not to be entitled to alimony, and that the Florida court had thought it unnecessary to rule on the issue since the report of the master showed that the wife had possession of ample property to meet her immediate needs.

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[87] Offutt Housing Co. v. Sarpy County, 351 U.S. 253 (1956). See: Report of the Interdepartmental Committee for the Study of Jurisdiction over Federal Areas within the States, *Jurisdiction over Federal Areas within the States*, Part I, Facts and Committee Recommendations (Washington, 1956).

[88] 350 U.S. 568 (1956). See: James D. Sumner, Jr., "Full Faith and Credit for Divorce Decrees," *Vanderbilt Law Review*, Vol. 9, pp. 1–25 (Dec., 1955); John R. McDonough, Jr., "Mr. Justince Jackson and Full Faith and Credit to Divorce Decrees: A Critique," *Columbia Law Review*, Vol. 56, pp. 860–886 (June, 1956). For a discussion of an interesting aspect of interstate relations see James W. Day, "The National Conference of Commissioners on Uniform State Laws," *University of Florida Law Review*, Vol. 8, pp. 276–286 (Fall, 1955).

Concurring separately, Justice Frankfurter would have dismissed the writ of certiorari as having been granted improvidently, since Florida expressly disavowed any adjudication regarding claims to property in Ohio, and therefore the only question was the power of Ohio to define the right to property situated in Ohio. On the other hand, speaking for four justices, Justice Black in another concurring opinion took the position that the Florida court had plainly adjudicated the wife's right to alimony, but that the Ohio court was not obliged to heed the Florida decree because the Florida court had no power to give a personal judgment against the wife, who was a non-resident, had not been served personally with process in that state, and had not appeared as a party. It has been the rule, at least since *Pennoyer v. Neff*,[89] Justice Black asserted, "that nonresidents cannot be subjected to personal judgments without such service or appearance." The wife was domiciled, it must be recalled, in Ohio, and so the Ohio courts held. The fiction that a wife cannot have a separate domicile, he said, "is a relic of the old discredited idea that women must always play a subordinate role in society." Since the Florida court's finding that the wife was domiciled in Florida was in an uncontested proceeding, it was open to challenge in Ohio. Justice Black argued that while there is no novelty in the rule that a state where one of the parties to a marriage is domiciled can dissolve the marriage without personal service against the other party, it cannot render a personal decree granting or denying alimony without such service.

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[89] 95 U.S. 714 (1878).

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BIBLIOGRAPHICAL ARTICLE

BIBLIOGRAPHICAL MATERIAL ON POLITICAL PARTIES AND PRESSURE GROUPS IN AUSTRALIA, NEW ZEALAND, AND SOUTH AFRICA*

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In recent years political parties in Australia, New Zealand, and South Africa have received the increasing attention of political scientists within the United States. Evidence of this trend is afforded by the works, completed and in progress, of such competent scholars as Louise Overacker, Dean E. McHenry, Lionel H. Laing, and Leslie Lipson on New Zealand and Australia, and Gwendolen M. Carter and Eugene P. Dvorin on South Africa.

The purpose of this bibliography is to list the most significant writings in English on parties and pressure groups in these Commonwealth countries, to give brief appraisals of some works, and to indicate the availability of certain source materials. Sources on political parties and pressure groups include not only books, but also some selected articles, general reports of parties, governmental documents, and unpublished theses. The addresses of party offices, and of individuals with private collections, have been included.

AUSTRALIA

Most general writings on Australian political parties deal primarily with federal parties, though some attention is given to state parties and organizations. General studies which deal with the evolution of the party system include the standard histories by W. K. Hancock, *Australia* (London: Ernest Benn, 1930) and R. M. Crawford, *Australia* (London: Hutchinson's Univ. Library, 1952). Additional general studies meriting attention are Meredith Atkinson (ed.), *Australia: Economic and Political Studies* (Melbourne: Macmillan, 1920); James Bryce, *Modern Democracies* (New York: Macmillan, 1921), vol. 2, pp. 202–213, 451; *Cambridge History of the British Empire* (Cambridge: Cambridge Univ. Press, 1933), vol. 7, part 1, *et passim;* L. F. Crisp, *The Parliamentary Government of the Commonwealth of Australia* (London: Longmans, Green, 2nd ed., 1954), pp. 74–137; W. G. K. Duncan, *Trends in Australian Politics* (Sydney: Angus and Robertson, 1935); G. V. Portus, "Political Parties," *Australian Policies, Political and Strategic* (Sydney: Australian Institute of International Affairs, 1938), Supplementary Papers, Series D, no. 1; and the thoughtful analysis by Alexander Brady, *Democracy in the Dominions* (Toronto: Univ. of Toronto Press, 2nd ed., 1952), ch. 13. Despite its disproportionate attention to the Labor Party, Louise Overacker's able study, *The Australian Party System* (New Haven: Yale Univ. Press, 1952), remains the most comprehensive one-volume survey and bibliographical source for all existing parties. A brief discussion of the recent Labor and Liberal Parties, together with some consideration of the effects of electoral systems on political parties, may be found in S. R. Davis *et al.*, *The Australian Political Party System* (Sydney: Angus and Robertson, 1954). A summary account of the parties is Gwendolen M. Carter, "The Commonwealth Overseas," in Sigmund Neumann (ed.), *Modern Political Parties* (Chicago: Univ. of Chicago Press, 1956). Don Whitington's study of federal politics in *The House Will Divide* (Melbourne: Georgian House, 1954) is an inaccurate and partial account. Two mimeographed papers delivered at the meeting of the Australian and New Zealand Association for the Advancement of Science in January, 1954, on specific aspects of the party system are D. W. Rawson, "Federalism and the Party System," and Henry Mayer, "An Examination of Some Conceptions of the Australian Party System, 1910–1950"; the latter paper is to be published in a forthcoming issue of *Historical Studies: Australia and New Zealand.* Passing mention of parties and politicians is made in the historical survey in Paul Knaplund, *The British Empire 1815–1939* (New York: Harper, 1941), pp. 704–734; in the brief but excellent history by Ernest Scott, *A Short History of Australia* (London: Oxford Univ. Press, 7th ed., 1947); and in the post-World War II economic and political account, J. C. Horsfall, *Australia* (New York: Frederick A. Praeger, 1955). J. D. B. Miller has a survey of politics in *Australian Government and Politics* (London: Duckworth, 1954). One of the best and most recent political and social histories is Gordon Greenwood (ed.), *Australia* (Sydney: Angus and Robertson, 1955). A study by Geoffrey Sawer, *Australian Federal Politics and Laws, 1901–1929,* is being published by the Melbourne Univ. Press; a second volume, covering the period 1929–1951, is in preparation.

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* The compilation and analysis of this bibliographical material were primarily the work of Josephine F. Milburn, who has recently spent over one year in New Zealand and shorter periods in Australia and South Africa studying certain aspects of party history and activities. For helpful advice, criticism, and suggestions given on the original draft of this article, the authors wish to express appreciation to L. F. Crisp and Manning Clark, Canberra University College; R. S. Parker, Australian National University; Lloyd Churchward, University of Melbourne; Henry Mayer, University of Sydney; K. J. Scott, F. L. W. Wood, and Nola Millar, Victoria University College; N. C. Phillips, Canterbury University College; John Penfold, University of Otago; L. H. Samuels, University of Witwatersrand; Gwendolen M. Carter, Smith College; Louise Overacker, Wellesley College; York Willbern, University of Alabama; Paul Knaplund, Professor Emeritus of the University of Wisconsin; Colin R. Lovell, University of Southern California; Dean E. McHenry, University of California (Los Angeles); Lucretia Ilsley, Hollins College; and Conrad Joyner, West Virginia University. The authors are also indebted to T. C. Truman, University of Queensland, for making material available for perusal. The encouragement and assistance of the Duke University Commonwealth-Studies Center is gratefully acknowledged.

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Party Politics in Queensland 1859–1900" (University of Queensland: M.A. thesis, 1938). S. M. Ingham discusses the parties in the Victorian Legislature between 1880 and 1900 in "Political Parties in the Victorian Legislative Assembly, 1880–1900," *Historical Studies: Australia and New Zealand,* 4 (November 1950), 241–256. An analysis of Queensland politics based upon the research and reflections of a civil servant is Charles Arrowsmith Bernays, *Queensland Politics During Sixty (1859–1919) Years* (Brisbane: Government Printer, n.d., 1919?). B. K. Hyams has some information on parties in "Western Australian Political Parties, 1901–1916," *University Studies in History and Economics* (Western Australia), 2 (September 1955), 48–61.

Recent additions to the literature on politics and parties include Alec B. Doyle, *How Shall I Vote?* (Sydney: Land Newspaper, 1952), which presents from a liberal point of view some objectives and achievements of the Commonwealth and New South Wales political parties to 1952; a discussion of party discipline in the Australian Labor and non-Labor Parties, J. D. B. Miller, "Party Discipline in Australia," *Political Science,* 5 (March 1953), 3–15, (September 1953), 21–36; and the third annual survey of politics by Russell H. Barrett in *Far Eastern Survey,* 25 (May 1956), 73–80. Brian C. Fitzpatrick's forthcoming book on the history of the Commonwealth may be consulted for his interpretation of political events. A manuscript on pressure politics by A. Wildavsky and D. Carboch gives extensive bibliographical information on the parties of the 1920's; publication in 1957 is expected.

The federal Labor Party had its organizational origins in 1901. Victor S. Clark in *The Labour Movement in Australasia* (New York: Holt, 1906) considers some of the developments in labor union and party history. A collection of documents on the labor movement, 1850–1907, is found in L. G. Churchward (ed.), *Australian Labour in the Making,* in press in 1956. The most comprehensive study of the federal Labor Party, with little reference to state organization, is L. F. Crisp, *The Australian Federal Labour Party 1901–1951* (London: Longmans, Green, 1955). Another recent study is George Healey, *A. L. P.: The Story of the Labor Party* (Brisbane: Jacaranda Press, 1955), a volume which contains numerous factual errors. Warren Denning described the crisis in the federal and New South Wales labor parties in 1930–1931 in his *Caucus Crisis* (Parramatta, New South Wales: Cumberland Argus, 1937).

Unpublished studies of the federal Labor Party include a thorough investigation of organization, with special reference to Victoria and New South Wales, D. W. Rawson, "The Organisation of the Australian Labor Party, 1916–1941" (Univ. of Melbourne: Ph.D. thesis, 1954); a description of the organization and functioning of all labor parties, both federal and state, and a discussion of party policies, T. C. Truman, "The Pressure Groups, Parties, and Policies of the Australian Labor Movement" (Univ. of Queensland: M.A. thesis, 1953); and a historical review of both federal and state parties with an analysis of voting behavior and election procedures, Malai Huvanandana, "A Study of Certain Aspects of the Australian Labour Party" (Univ. of Michigan: Ph.D. thesis, 1942). Numerous published and unpublished studies of labor party development in the states of Queensland, New South Wales, Victoria, and South Australia have also been completed. Vere Gordon Childe included a study of worker's representation relating mainly to New South Wales in *How Labour Governs* (London: Labour Publishing Co., 1923).

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A few Australian Labor Party documents, including the *Reports* of the Triennial Federal Conferences, are in the Mitchell Library (Sydney) and the National Library (Canberra). Current records after 1945 of the Federal Conferences and meetings of the Federal Executive are in the possession of the General Secretary (since 1953: Jack Schmella, Queensland Branch, Dunstan House, Elizabeth Street, Brisbane). The complete minutes of the Victorian Central Executive from 1901 are in the office now occupied by the Australian Labor Party (anti-Communist) in the Trades Hall, Melbourne. Records of other state labor parties are in their respective offices: New South Wales Party in Trades Hall, Sydney; Queensland Party in Dunstan House, Brisbane; South Australian Party in Trades Hall, Adelaide; Western Australian Party in Trades Hall, Perth; and Tasmanian Party in Trades Hall, Hobart. Labor newspapers and periodicals published in the states include the *Standard* (Sydney) from 1943 to 1951, *Tocsin* (Melbourne) from 1897 to 1906, *Labour* (Melbourne), and *Labour News* (Brisbane).

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—An Assessment," *Australian Quarterly,* 26 (December 1954), 30–46; H. E. Weiner, "The Reduction of Communist Power in Australian Trade Unions," *Political Science Quarterly,* 69 (September 1954), 390–412; Brian Doyle, *Catholics and Labor's Socialist Objective* (Haberfield: by Author, 1949); numerous articles by Lloyd Ross; E. H. Burgmann, "Religion," in C. H. Grattan (ed.), *Australia* (Berkeley: Univ. of California Press, 1947), pp. 326–336; James G. Murtagh, *Australia: The Catholic Chapter* (New York: Sheed and Ward, 1946); Catholic Church of Australia, *Socialisation* (Carnegie, Victoria: Renown Press, 1948); Catholic Bishop of Australia, *Peace in Industry* (Carnegie, Victoria: Renown Press, n.d., 1951?); and A. W. Sheppard (ed.), *Catholic Action and Australian Labor* (Sydney: published by A. W. Sheppard, n.d., 1955?). Celia Hamilton has a study in progress on "Catholics and the Labor Party to 1923." Some Catholic periodicals include *Twentieth Century* (Melbourne) and *Social Survey* (Melbourne).

The major parties opposing Labor since 1917 have included the Nationalist Party, in existence from 1917 to 1929 under Hughes; the United Australian Party, organized in 1931 and continued under Lyons and later under Menzies until 1944; the Liberal Party, organized in 1944 under Menzies; and the Country Party, with a continuous existence since 1918. A Liberal-Country Party coalition won the 1949 and subsequent general elections. The policies and organization of the Nationalist Party are referred to in unpublished studies by K. I. Turner and D. G. Crew (University of Sydney, 1955). Autobiographies and biographies of Nationalist leaders include those on Hughes mentioned above and Sir George Foster Pearce, *Carpenter to Cabinet* (London: Hutchinson and Co., 1951).

Historical studies of liberalism include F. W. Eggleston, *Reflections of an Australian Liberal* (Melbourne: F. W. Cheshire, 1953), and Sidney M. Ingham, "Some Aspects of Victorian Liberalism, 1880–1900" (Univ. of Melbourne: M.A. thesis, 1950). Recommendations for a non-labor program were made by A. B. Smith in *Some thoughts in regard to an anti-socialist-liberal programme for the Australian Parliament* (1908; in the Mitchell Library). Documents of early liberal political groups include the platform and rules of procedure in *The People's Liberal Party* (Melbourne, 1911); and *Second Annual Liberal Union, Report of the Proceedings* (Melbourne, 1913). Reminiscences and biographies of other non-labor politicians include Sir George Houstoun Reid, *My Reminiscences* (London: Cassell, 1917); Jessie Jane Groom (ed.), *Nation Building in Australia: The Life and Work of Sir Littleton Ernest Groom* (Sydney: Angus and Robertson, 1941); A. J. McLachlan, *McLachlan: An F.A.Q. Australian* (Adelaide: Lothian Publishing Co., 1948); and E. H. Sugden and F. W. Eggleston, *George Swinburne* (Sydney: Angus and Robertson, 1931). The papers of Sir Littleton Ernest Groom are located in the Parliamentary Library (Canberra). A collection of radio speeches by R. G. Menzies is *The Forgotten People* (Sydney: Angus and Robertson, 1943).

Some documents of the Australian Country Party are located in the National Library and are obtainable from the Federal Council (J. F. Dredge, Secretary, 42 Bridge Street, Sydney). Publications of the Country Party that appear periodically include *The New South Wales Countryman* (Sydney) and *The Victorian Countryman* (Melbourne). Ulrich Ruegg Ellis, who was private secretary to Sir Earle Page, is making a study of the Federal and New South Wales Parties; he has compiled several bibliographies and has written research notes on the Party during 1955 and 1956, including *Bibliography: Australian Country Party (Federal); Bibliography: Australian Country Party (New South Wales); Bibliography: Australian New States Movement; Research Notes: Australian Country Party (Federal); Research Notes: Country Party of New South Wales* (Canberra: mimeo.; these five papers are obtainable from the Office of Rural Research, P.O. Box 34, Canberra). Ellis is also assisting Sir Earle Page in writing his memoirs. J. B. Abbott ably described the recent policies of the Party in A. Campbell Garnett, *Freedom and Planning in Australia* (Madison: Univ. of Wisconsin Press, 1949), pp. 296–306. The recent policies of the Party were published in Australian Country Party (Federal), *Platform and Policy, Reaffirmed November 1953* (Sydney: Land Newspaper, 1953).

Some documents of the Liberal Party are in the National Library and obtainable from the Federal Secretariat (Box 21, G.P.O., Canberra; or 30 Ash Street, Sydney). Documents include reports of conferences and policy statements. Among other publications are *Forming the Liberal Party of Australia* (Sydney: mimeo., 1944); *Achievements 1949–1954* (Sydney: Land Newspaper, n.d.; 1954?); and New South Wales Research Section, *List of Bulletins and Notes Available* (Sydney: mimeo., April 1, 1954). Publications of the Liberal Party include *Current Politics* (Sydney) and *Liberal Opinion* (Sydney). S. Holzinger has been working at the Australian National University on the origins of the Liberal Party. A. A. Morrison is making a study of the Queensland Liberals. His presidential address to the Historical Society of Queensland on September 25, 1953, dealt with the state Liberal Party organization before 1900.

Other political parties have included the early socialist groups, the Communist Party (organized in 1921), and the recently formed Anti-Communist Labor Party. (The Anti-Communist Labor Party was organized in 1955 by a majority of the former Victoria Australian Labor Party Executive; it was supported by seven Victorian labor representatives in the federal Parliament and a large number of state legislators.) Pamphlets and newsletters of the Victoria Socialist Party and socialist groups in New South Wales are located in the Mitchell Library and the Melbourne Public Library. Mention of these parties is made in Lloyd Ross's unpublished study of the Australian labor movement. Other unpublished studies of these movements include Robin Gollan, "Radicalism and Socialism in Eastern Australia 1880–1910" (Univ. of London: Ph.D. thesis, 1950; also in the Australian National Univ. Library) and Marjorie Ovenden's and Ian Turner's studies in progress on the Victorian socialist and labor movements. (A section of the Victoria Socialist Party merged with the Labor Party in 1921, while another section formed the Communist Party.) One of the most active early leaders of the Queensland socialist and labor movements was William Lane; for records of his activities see Lloyd Ross, *William Lane and the Australian Labor Movement* (Sydney: Forward Press, 1935), and E. H. Lane, *From Dawn to Dusk* (Sydney: W. Brooks, 1939). Histories of the Communist Party include L. L. Sharkey (Party leader), *An Outline History of the Australian Communist Party* (Sydney: Australian Communist Party, 1944); J. C. Henry, *25 Years of the Australian Communist Party* (Sydney: Australian Communist Party, 1945); E. W. Campbell, *History of the Australian Labor Movement* (Sydney: Current Books Distributors, 1945); Victoria State Government, *Report of the Royal Commission inquiring into origins, aims, objects and funds of the Communist Party in Victoria* (Melbourne: Government Printer, 1950), no. 12, 4329/50; and Commonwealth of Australia, Royal Commission on Espionage, *Report* (Canberra: Government Printer, 1955). A recent publication by the Communist Party is R. S. Thompson, *Petrov's 25,000 Dollar Story Exploded* (1955). The *Communist Review* (Sydney), a periodical, is published by the Party. An anti-labor view of Communist infiltration into the labor movement is given by M. H. Ellis, *The Garden Path* (Sydney: Land Newspaper, 1949).

A number of election investigations and surveys which give further insight into the activities and policies of all parties have been made. Conrad Joyner examines the role of parties, personalities, and various pressure groups in the 1911, 1913, and 1919 referenda in his Ph.D. thesis in progress at the University of Florida. A. Wildavsky and D. Carboch, *op. cit.* (*supra*, p. 201), describe some election activities during the Bruce-Page Government. Leicester Webb's *Communism and Democracy in Australia* (New York: Frederick A. Praeger, 1955) gives a thorough analysis of party attitudes during the 1951 popular referendum on the dissolution of the Communist Party. Another comprehensive election study was made by Henry Mayer and Joan Rydon in *The Gwydir By-Election, 1953* (Canberra: Australian National Univ., 1954). Russell H. Barrett gives election results since 1928 and arrives at certain conclusions regarding preferential voting, proportional representation, compulsory voting, and party strength within the six Australian states in "Responsible Party Politics in Australia" (Univ. of Melbourne: Ph.D. thesis, 1952). Other able investigations include a short survey of the 1954 federal election, Dean E. McHenry, "The Australian General Election of 1954," *Australian Quarterly*, 27 (March 1955), 14–23, and a monograph on the 1955–1956 state and federal elections, D. W. Rawson and S. Holtzinger, *Politics in Eden-Monaro 1955–1956* (Canberra: William Heinemann, 1956).

Sources describing the activities of the federal and state governments throw some light on the activities of the political parties. Particular mention should be made of the very useful coverage of political developments, including party developments, at both the Commonwealth and state levels, in the section of the *Australian Journal of Politics and History* entitled "Australian Political Chronicle." This new professional journal, published twice yearly, has included survey articles in its first two issues: see 1 (November 1955), 98–121, and 1 (May 1956), 245–268. State governmental activities are described for Victoria by the Liberal, F. W. Eggleston, in *State Socialism in Victoria* (London: P. S. King and

Son, 1932), and for Queensland before 1918 in *Socialism at Work* (Brisbane: Government Printer, 1918). E. M. Higgins discusses the Labor Party in control of the Queensland government in "Queensland Labor Governments, 1915–1929" (Univ. of Melbourne: M.A. thesis, 1954). A further analysis of state enterprises in Queensland is being made by Herbert Burton, Principal of Canberra University College. State government in Australia is the subject of a forthcoming publication edited by Rufus Davis.

A. Campbell Garnett mentions the activities of the Commonwealth government in his *Freedom and Planning in Australia* (cited *supra*, p. 204). Other descriptions are found in Gordon Greenwood, *op. cit.* (*supra*, p. 200); Ernest Scott, *op. cit.* (*supra*, p. 200); J. C. Horsfall, *op. cit.* (*supra*, p. 200); and J. D. B. Miller, *op. cit.* (*supra*, p. 200). Discussion of governmental functions and recommendations for future programs are given in Alan Davies and Geoffrey Serle (eds.), *Policies for Progress* (Melbourne: F. W. Cheshire for the Victorian Fabian Society, 1954).

Special pressure groups in Australia have included the Council for Civil Liberties, Returned Servicemen's Leagues, and Church groups (e.g., Catholics, *supra*, p. 203). Full-time lobbyists are maintained by employers' organizations: Chambers of Manufacturers, Chambers of Commerce, Employers' Councils, Chamber of Automotive Industries, and Council of Fire and Accident Underwriters. Reports of these organizations are available in the National Library and in the state offices of these organizations, *e.g.*, Employers' Federations in Victoria, South Australia, and Western Australia. Part-time lobbyists are sent to Canberra by pastoralists' and wheat-growers' associations, the Australasian Council of Trade Unions, and the Australian Workers' Union. Various of these pressure groups are briefly mentioned by L. F. Crisp in *The Parliamentary Government of the Commonwealth of Australia* (cited *supra*, p. 200), pp. 56–60, 257. A. Wildavsky and D. Carboch, *op. cit.* (*supra*, p. 201), have made a study of the pressure groups of the 1920's. The policies of employers' associations are briefly described by Kenneth F. Walker in *Industrial Relations in Australia* (Cambridge: Harvard Univ. Press, 1956), pp. 334–343. Mark Perlman also deals with the attitude of employer organizations in his *Judges in Industry* (Carlton: Melbourne Univ. Press, 1954).

For an analysis of labor pressure groups, see T. C. Truman, "The Pressure Groups, Parties, and Policies of the Australian Labor Movement" (Univ. of Queensland: M.A. thesis, 1953). L. F. Crisp describes briefly the relations between the trade unions and the Labor Party in his *Australian Federal Labour Party 1901–1951* (cited *supra*, p. 201). Studies of trade unions include James T. Sutcliffe, *A History of Trade Unionism in Australia* (Melbourne: Macmillan, 1921); T. A. Coghlan, *Labour and Industry in Australia* (London: Oxford Univ. Press, 1918), 4 vols. "Left-wing" studies include Brian C. Fitzpatrick, *A Short History of the Australian Labor Movement* (Melbourne: Rawson Bookshop, new enlarged ed., 1944), and a study by a Communist, E. W. Campbell, *History of the Australian Labor Movement* (cited *supra*, p. 205). Unpublished works include D. W. Rawson's study on trade unionism (Australian National Univ., in progress, 1956) and various studies of trade unions in the states. A number of published works deal with special periods of labor history and with industrial relations and arbitration.

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Political parties did not develop organizations until around 1891, when a coalition of labor with small farmers provided parliamentary support for the Liberal Government. A good general interpretation of party history and development is given by Alexander Brady in *Democracy in the Dominions* (cited *supra*, p. 200). A more detailed coverage of modern parties is in Leslie Lipson, *The Politics of Equality* (Chicago: Univ. of Chicago Press, 1948). Although there is room for disagreement with certain of Lipson's conclusions, especially concerning equality in New Zealand life, his book is an indispensable source for many phases of New Zealand party politics. He also traces the origins of the caucus in New Zealand in *Historical Studies: Australia and New Zealand*, 2 (April 1942), 1–10. J. B. Condliffe discusses the development and achievements of parties in "Political Parties and State Experiments, 1876–1921," in *Cambridge History of the British Empire*, vol. 7, part 2, pp. 172–198. A lengthy discussion of the present party system and of the responsibility of elected officials, with some mention of sources, is Peter Campbell, "Politicians, Public Servants, and the People in New Zealand," *Political Studies*, 3 (October 1955), 193–210; 4 (February 1956), 18–29. Critical accounts of the early political scene are in Alfred Saunders, *History of New Zealand, 1642–1893* (Christchurch: Whitcombe and Tombs; and Smith, Anthony, Sellars and Co., 1896, 1899), 2 vols.; and by G. H. Scholefield in *New Zealand in Evolution* (London: T. Fisher Unwin, 1909). A brief historical account of the party system is in Leicester Webb, *Government in New Zealand* (Wellington: Department of Internal Affairs, 1940). Political leaders are discussed in R. M. Burdon, *The Life and Times of Sir Julius Vogel* (Christchurch: Caxton Press, 1948); R. H. J. Hamlin, "Sir Robert Stout" (Wellington: Turnbull Library, unpublished thesis, 1939); and G. Cox, "Early Life of Sir Robert Stout" (Dunedin: Hocken Library, unpublished thesis, 1931). The liberal tradition is traced back to Sir George Grey's Ministry in T. G. Wilson, "The Rise of Liberalism in New Zealand, 1870–1890" (Auckland Univ. College: M.A. thesis, 1951); sections of this thesis have been reprinted as Auckland Univ. Bulletins: *The Grey Government, 1877–1879* (Bulletin no. 45, History series, no. 5, 1954), and *The Rise of the New Zealand Liberal Party, 1880–1890* (Bulletin no. 48, History series, no. 6, 1956). Details of Grey's life and the political atmosphere of his times are given in a number of biographies, including William Lee Rees and Lily Rees, *The Life and Times of Sir George Grey, K.C.B.* (Auckland: H. Brett, 1892). The first years of the Liberal-Labour Government were summarily outlined in G. S. Maloney, "A History of the Ballance Ministry" (Canterbury Univ. College: MS, 1931). William Pember Reeves has described a number of the persons involved in the politics of the Liberal period in *The Long White Cloud* (London: Allen and Unwin, 1898, 4th ed., 1950). A study of liberalism and socialism from

1865 to 1913 in one electoral district is P. J. O'Farrell, "The Workers in Grey District Politics, 1865–1913" (Canterbury Univ. College: M.A. thesis, 1955). Biographical studies of Richard John Seddon reveal some Liberal Party activities: James Drummond, *The Life and Work of Richard John Seddon* (Christchurch: Whitcombe and Tombs, 1906), and R. M. Burdon, *King Dick* (Wellington: Whitcombe and Tombs, 1955). Keith Sinclair is preparing a biography of William Pember Reeves, a member of the Liberal Ministry. William Downie Stewart's *William Rolleston* (Christchurch: Whitcombe and Tombs, 1940) furnishes some insight into the views of the Liberal opposition.

The best accounts of the Liberal-Labour Government's achievements are in William Pember Reeves, *State Experiments in Australia and New Zealand* (London: Allen and Unwin, 1st ed., 1902, 1923), 2 vols.; J. B. Condliffe, *New Zealand in the Making* (London: Allen and Unwin, 1930); André Siegfried, *Democracy in New Zealand* (London: Bell and Sons, 1914); and the critical review by James Edward LeRossignol and William Downie Stewart, *State Socialism in New Zealand* (New York: Crowell, 1910). An excellent account of economic fluctuations to 1914 is C. G. F. Simkin, *The Instability of a Dependent Economy* (London: Oxford Univ. Press, 1951). R. T. Shannon examines in a scholarly way the deterioration of Liberal power in "The Decline and Fall of the Liberal Government, 1908–1914" (Auckland Univ. College: M.A. thesis, 1953); he is now investigating the Liberal Party before 1908. Background studies for Reform Party politics are provided in M. C. Brand, "A Study of Conservatism, 1890–1911" (Victoria Univ. College: M.A. thesis, 1949), and Mary Devonport, "The Mackenzie Ministry 1912" (Canterbury Univ. College: M.A. thesis, 1949).

The "small farmers" left the Liberal Party and became supporters of the Reform Party, organized in 1912. Leicester Webb gives an effective account of this development, "The Rise of the Reform Party" (Canterbury Univ. College: M.A. thesis, 1928). The policies of the Reform Party are discussed in a biography of one of its leaders: William Downie Stewart, *Sir Francis H. D. Bell, His Life and Times* (Wellington: Butterworth, 1937). A. K. Brady describes some party activities in "Gordon Coates, Prime Minister of New Zealand, 1925–1928" (Auckland University College: M.A. thesis, 1947).

R. M. Chapman competently analyzes the noteworthy election success of the newly formed United Party in "The Significance of the 1928 General Election" (Auckland Univ. College: M.A. thesis, 1949). An unpublished work devoted to the Party's leader is A. G. Gilles, "The Life and Work of Sir Joseph Ward" (Canterbury Univ. College, 1932). A coalition was effected between the United and Reform Parties in 1931. Most records of the Reform and United Parties are not available (cf. Chapman, cited *supra*).

Documentary sources for pre-labor parties are located in private collections of J. T. Paul (29 Nottingham Street, Wellington), Harold Silverstone (Mathematics Department, Otago Univ., Dunedin), and Herbert Roth (National Library Service, Wellington); they were also recorded, 1906–1912, in the *Commonweal* and after 1910 in the *Maoriland Worker*. The 1916 records dealing with the founding of the Labour Party are quoted in J. T. Paul, *Humanism in Politics* (Wellington: New Zealand Worker Printing and Publishing Co., 1946). Annual reports for 1917 and 1919 are included in the Silverstone and Roth collections, and from 1917 through 1922 in the *Maoriland Worker* (July 11–18, 1917; July 7–31, 1918; July 9–August 13, 1919; July 14–September 15, 1920; July 20–September 7, 1921; July 12–August 3, 1922). Other Party records, including annual reports and platforms from 1923, are in the Party Office (D.I.C. Building, Wellington). The annual reports from 1938 to 1947 are also in the Turnbull Library (Wellington). The only verbatim account of a conference was prepared in 1927; printed Party reports appeared after 1937.

Norman D. Stevens discusses the Parliamentary candidates for the House of Representatives from 1890 to 1916 in articles published in *Political Science*, 7 (March 1955), 38–48; (September 1955), 128–137; 8 (September 1956), 128–138; the fourth section is to be published in a later issue. Biographies of labor leaders include James Thorn, *Peter Fraser* (London: Odhams Press, 1952); L. F. Owen, "The Life Story of H. E. Holland," a series of articles in the *Standard* (in 1935 the *New Zealand Worker* became the *Standard*), October 31, 1940, to February 13, 1941; brief sketches of forty Members of Parliament in Clyde Carr, *Politicalities* (Wellington: National Magazines, 1936); and short biographies of former political leaders, including Labour Party members, in G. H. Scholefield, *Dictionary of New Zealand Biographies* (Wellington: Department of Internal Affairs, 1940), 2 vols. Among a number of unpublished works of a summary nature on the political labor movement is R. F. Paddock, "Labour as a Force in Politics in New Zealand up to 1919" (Auckland Univ. College: M.A. thesis, 1932), which deals in some detail with the independent parties from 1904 to 1913 and concludes with a short, somewhat inaccurate, discussion of the Labour Party before 1919. J. T. Paul's history of the Labour Party, *Humanism in Politics* (cited *supra*), fills in some of the Party details from 1916. Louise Overacker describes briefly the circumstances under which the Party was organized in her article on the present-day structure and functioning of the Labour Party in this REVIEW, 49 (September 1955), 708–732. Details of Party activities from 1916 to 1935 are comprehensively covered in Bruce Brown, "The New Zealand Labour Party, 1916–1935" (Victoria Univ. College: M.A. thesis, mimeo., 1955). Some aspects of the Party history are included in W. B. Sutch, *The Quest for Security in New Zealand* (London: Penguin Books, 1942). Norman G. Pauling discusses labor and politics in the *Canadian Journal of Economics and Political Science;* 19 (February 1953), 55–69. "The New Zealand Labour Party: Its Formal Structure" is described by John Penfold in *Political Science*, 6 (March 1954), 3–16. Louise Overacker is preparing a comparative study of the British and New Zealand labor parties; the first part, "Heritage," is scheduled to appear in *Political Science*, March, 1957.

The achievements of the Labour Government after 1935 are outlined by Party members in David Wilson, *History in the Making* (Wellington: Labour Bookroom, 1936) and James Thorn, *New Zealand's Labour Government* (Wellington: Standard Press, 1937). Walter Nash records some of his views on political and economic life in *New Zealand, A Working Democracy* (New York: Duell, Sloan, Pearce, 1943). A more comprehensive but biased account of the achievements of labor is given by John A. Lee in *Socialism in New Zealand* (London: T. Werner Laurie, 1938). Able discussions of the steps leading to recovery from the depression are in William Sutch, *Recent Economic Changes in New Zealand* (Wellington: New Zealand Institute of Pacific Relations, 1936), vol. 1, no. 6; and Horace Belshaw, *Recovery Measures in New Zealand* (Wellington: New Zealand Institute of Pacific Relations, 1936), vol. 1, no. 7. Dean E. McHenry is preparing an analysis of the Labour Government from 1935 to 1949. Reliable studies of the economy include J. V. T. Barker and H. G. Lang, "Economic Policy and National Income," *New Zealand Official Year Book 1950* (Wellington: Government Printer, 1951); *New Zealand Economy 1939–1951* (Wellington: Government Printer 1952), "presented" by S. G. Holland; *New Zealand Economic Survey* (Wellington: Government Printer, 1952–1956), an annual publication "presented" from 1952 to 1954 by S. G. Holland and in 1955 and 1956 by Jack T. Watts; R. S. Parker (ed.), *Economic Stability in New Zealand* (Wellington: New Zealand Institute of Public Administration, 1953); K. J. Scott (ed.), *Welfare in New Zealand* (London: Oxford Univ. Press, 1955); and *Public Corporations in New Zealand,* a report by the Diploma of Public Administration Class (Victoria Univ. College: mimeo., September, 1954).

Records of the National Party, founded in 1937 through a merger of the United and Reform Parties, are located in the Party office (Dominion Headquarters, G.P.O. Box 1155, Wellington). Records include *Constitution and Rules* (1951); *History of the New Zealand National Party*) mimeo., February 26, 1953), Ref. 791; *Handbook on Organisation* (1949); *Conference Reports; The National Government 1949–1954* (1955); and *A Record of Progress, Policy, General Election 1954* (mimeo., 1954), "presented" by S. G. Holland. The present organizational structure is adequately covered in R. N. Kelson, "The New Zealand National Party," *Political Science,* 6 (September 1954), 3–32.

Other existing parties include the Communist Party and the Social Credit Political League. In the 1954 election the Communist Party sponsored several candidates but polled an insignificant percentage of the vote. Although not well presented, the historical development of the Communist Party is outlined in Joseph Robert Powell, "The History of a Working Class Party, 1918–1940" (Victoria Univ. College: M.A. thesis, 1950). Herbert Roth examines the rise of Marxism in "How Marxism came to New Zealand," *Political Science,* 5 (March 1953), 56–59. Alex Galbraith, former chairman of the Communist Party, briefly describes its establishment in "Foundation of the New Zealand Communist Party," *Workers' Weekly* (organ of the Party), August 6, 1937. Some information about the Party's history is found in Sid Scott, *Outline History of the New Zealand Labour Movement* (Auckland: Wilson's Printery, 3rd ed., 1951). The program of the Party is outlined in a recent publication, *New Zealand's Road to Socialism* (Auckland: Communist Party, 1955).

A brief report on the Social Credit Political League, its origin in 1953, its early success at the polls, and its 1955 conference, is John Penfold, "The New

Zealand Social Credit Political League," *Political Science,* 7 (March 1955), 33–37. The League issued in 1954 several leaflets explaining its program: e.g., *Social Credit's Solution; Social Credit's Answer to Chaos;* and the *Key to Prosperity* (by R. M. Gunn, 23 Caius Avenue, Wanganui). The *N.Z. Social Credit News,* a weekly, is issued by the Auckland branch (P.O. Box 5086, Auckland). The Dominion President, Wilfred B. Owen, and Secretary, J. E. Colechin, are in Christchurch (P.O. Box 1450).

Among the few studies on the Maori in politics are S. McClean, "Maori Representation, 1905 to 1948" (Auckland Univ. College: M.A. thesis, 1950); J. M. Henderson, "Ratana" (Univ. of Otago: M.A. thesis, 1955).

Election statistics giving results for each party are not officially printed but recorded in newspapers and party reports. D. G. Forsyth analyzes "The General Election of 1902" (Auckland Univ. College: M.A. thesis, 1952). Other election studies include R. M. Chapman, *op. cit.* (*supra,* p. 208); Carol G. Rollo, "The Election of 1935 in New Zealand" (Canterbury Univ. College: M.A. thesis, 1950); N. M. Donald, "The General Election 1949," *Political Science,* 3 (March 1951), 12–31. Some election results by parties, 1905–1938, are in J. T. Paul, *op. cit.* (*supra,* p. 209). Election results, 1935–1954, were reported in Labour Party, *Reports,* 31 (1947); 34 (1950); 39 (1955); 1949–1954, in National Party, *General Election, 1954* (Wellington: mimeo., January 14, 1955). K. J. Scott has discussed election results for the 1954 election in *Political Science,* 7 (September, 1955).

Active pressure groups include the civil servant association, teacher associations, and federations of employers, farmers, and laborers. M. J. Moriarty examines the relation of pressure groups to the public service in "Pressure Groups," *New Zealand Journal of Public Administration,* 13 (March 1951), 16–24; and K. J. Scott discusses favorably some functions of pressure groups in the *Public Service Journal* (Wellington), 40 (March 1953), 16–17. Analyses of the Public Service Association are given by K. J. Scott and J. Lewin in the *New Zealand Journal of Public Administration,* 6 (September 1943), 3–17; (March 1944), 60–71. The place of the advisory committees in the public service is examined by K. J. Scott in the *New Zealand Journal of Public Administration,* 4 (March 1942), 24–31. Norman D. Stevens deals with the Associated Chambers of Commerce, the New Zealand Employers' Federation, the Federated Farmers, and the Federation of Labour in an unpublished paper, *Organization and Techniques of Pressure Groups in New Zealand* (Victoria Univ. College: mimeo., 1954). Certain aspects of the economy are dealt with in Horace Belshaw (ed.), *New Zealand* (Berkeley: Univ. of California Press, 1947), and in F. L. W. Wood, *This New Zealand* (Hamilton: Paul's Book Arcade, rev. ed., 1952). The annual reports of the statutory boards provide good sources of information: e.g., The Meat Producers' Board created in 1922; Dairy Board, in 1924; Poultry Board, in 1933; Wool Board, in 1944; Milk Board, in 1953; and Apple and Pear Board, in 1948. Members of the Boards include producers subject to regulation. The history of the Marketing Boards is covered briefly in M. J. Moriarty, "The Changing Structure of Marketing," (New Zealand)

Journal of Public Administration, 16 (September 1953), 1–14. Other sources dealing with marketing are M. J. Moriarty, "The Marketing of Dairy Produce," *New Zealand Journal of Public Administration*, 10 (March 1948), 7–27, and T. R. Smith, "The Administration of Internal Marketing," *New Zealand Journal of Public Administration*, 7 (September 1944), 19–27. P. G. Morris gives a good account of the methods used by one type of pressure group, with particular reference to the Wellington area, in "Unemployed Organisations in New Zealand 1926–1939" (Victoria Univ. College: M.A. thesis, 1950). Reference to pressure groups is made in Helen M. Simpson, *The Women of New Zealand* (Wellington: Department of Internal Affairs, 1940), ch. 6.

A great deal has been written about the activities of trade unions. Examples of pressures from the Federation of Labour operating upon the Arbitration Courts can be observed in the *Reports* of the New Zealand Industrial Arbitration Courts. J. D. Salmond records in some detail the labor developments, 1840–1894, in *New Zealand Labour's Pioneering Days* (Auckland: Forward Press, 1950); further details are included in his Ph.D. thesis, "The History of the Labour Movement, 1840–1894" (Otago Univ.: 1924). D. W. Crowley covers the main union and political developments, 1894–1913, in "An Outline History of the New Zealand Labour Movement, 1894–1913," which, with a critical bibliography, is in *Historical Studies: Australia and New Zealand*, 4 (May 1951), 367–375. An able review of unionism, with particular reference to the Alliance of Labor and the formation of the Federation of Labour in 1937, is R. C. J. Stone, "A History of Trade Unionism in New Zealand, 1913–1937" (Auckland Univ. College: M.A. thesis, 1948). There is a study of unions, 1894–1953, by R. M. Martin, "Compulsory Unionism in New Zealand" (Victoria Univ. College: M.A. thesis, 1954), 2 vols.; some of his findings are reported in *Political Science*, 8 (September 1956), 104–121. J. T. Paul is preparing a review of trade unionism to be entitled *Growing Pains* (Wellington: MS., 1955). The Communist Party's interpretation of labor history is found in Sid Scott's *Outline History of the New Zealand Labour Movement* (cited *supra*, p. 210). Documentary sources for the Trades and Labour Councils are in the collections of J. T. Paul (29 Nottingham Street, Wellington), and the late James Thorn. The Congress of 1855 is covered in John Norton (ed.), *The History of Capital and Labour in all Lands and Ages* (Sydney: Oceanic Printing Co., 1888). The first conference in 1890 is reported in New Zealand Parliament, House of Representatives, *Appendix to the Journal*, Session 1, 1891, H-1. The "Red" Federation of Labor had its beginnings on the west coast of the South Island; complete records from 1907 of the Inangahua Miners Union, a west coast union, are in the union's office. Other documents of the "Red" Federation are reprinted in P. H. Hickey's *"Red" Fed. Memoirs, 1908–1915* (Auckland: New Zealand Worker Print, 1925). Reports of the United Federation of Labor, 1913–1919, are in Harold Silverstone's collection (Mathematics Department, Otago Univ., Dunedin). Records of the Federation of Labour (formed in 1937) are in its office (Trades Hall, Vivian Street, Wellington). *The Maoriland Worker* (1910–1924), *New Zealand Worker* (1924–1935), and *Standard* (1935–) report union events. Finally, there are many additional published and unpublished sources concerning special features of union history and activities, such as those dealing with strikes and arbitration.

SOUTH AFRICA

The problems created by Afrikaner and British rivalry, and by European, Colored, Indian, and Native maladjustments and conflicts have marked the political life of South Africa. Only European parties have been politically effective. Some of these originated with the establishment of the Union in 1910. The political developments from the national convention to 1940 are authoritatively covered by Eric A. Walker in *A History of South Africa* (London: Longmans, Green, 2nd ed., 1941). A good succinct historical analysis of parties is Leo Marquard, *The Peoples and Policies of South Africa* (London: Oxford Univ. Press, 1952), ch. 7; he also makes some reference to parties in *The Story of South Africa* (New York: Roy Publishers, 1954). A wordy history of political events from the 1880's to 1950, with emphasis upon the activities of Smuts, is in Sarah Gertude Millin, *The People of South Africa* (New York: Knopf, 1954), pp. 122–199. The social and economic analysis of South African development in C. W. de Kiewiet, *A History of South Africa, Social and Economic* (Oxford: Clarendon Press, 1941) gives a good background for understanding the political history. Arthur Keppel-Jones, *South Africa* (London: Hutchinson's Univ. Library, 2nd ed., 1953) is an excellent short historical account covering the main political developments. René de Villiers ably describes the recent party system in George Harold Calpin (ed.), *The South African Way of Life* (London: William Heinemann, 1953), pp. 132–152. Another discussion of parties is Alexander Brady, "Nationalism and Parties," in his *Democracy in the Dominions* (cited *supra*, p. 200), pp. 384–403. Gwendolen Carter has ably examined the party system and furnished data on parliamentary elections, 1938–1953, in Neumann (ed.), *Modern Political Parties* (cited *supra*, p. 200); her *Politics of Inequality*, on parties and politics, 1948–1956, will be published by Allen and Unwin in 1957. G. H. Calpin mentions the activities of third parties in "South African Politics and Personalities: The Power of Third Parties," *Commonwealth and Empire Review*, 84 (April 1950), 25–30. Studies of South African politics are included in Edgar H. Brookes *et al.*, *Coming of Age* (Cape Town: Maskew Miller, 1930); *Cambridge History of the British Empire*, vol. 8; Muriel Horrell, *Non-European Policies in the Union and the Measure of Their Success* (Johannesburg: South African Institute of Race Relations, 1954). Unpublished sources include South African Institute of Race Relations, Reference Library, *General Bibliography on Party Politics in South Africa* (Johannesburg: typescript, December 6, 1955; address: P.O. Box 97, Johannesburg); Harry Miller, *Fifty Years of South African Politics* (mimeo.: January 1951; obtainable from Librarian, United Party), 4 parts. The *Star* Library (Johannesburg) maintains a clipping file on many subjects, including all political parties since 1920.

The Labour Party, sponsored by British-born trade unionists, originated in 1908. *A Bibliography on the South African Labour Party* has been compiled by the South African Institute of Race Relations (Johannesburg: typescript, December 8, 1955). Major sources for the early history of the Party are newspapers and Party documents. Most of the Party records from 1910 are in the Party's office (32 Kerk Street, Johannesburg). Edward Roux examines the development of the Party in *Time Longer than Rope* (London: Victor Gollancz, 1948), mainly concerned with African labor. Thomas Boydell (former Labour Member of the Assembly and of the Senate) described the Party's history in his popularly written autobiographical books, *My Luck Was in* (Cape Town: Stewart Printing Co., 1947), and *My Luck Still In* (Cape Town: Stewart Printing Co., 1948). The policy of the Party to protect white labor from the influx of natives is reflected in the discussion in "The Civilised Labour Policy," *Race Relations*, 2 (1935), no. 5, November, 55–61. Some details of the National-Labour coalition will probably be revealed in Mrs. Creswell's biography of her husband, F. H. P. Creswell, now in preparation. The events leading to the subsequent decline of the Labour Party are also recorded in the Party records.

The history of the South African Party may be read to a large extent in the biographical writings on Botha and Smuts. Harold Spender praises the work of Botha in his biography, *General Botha* (Boston: Houghton Mifflin, 1916). The reactions of Botha to the rise of the Nationalists are described in Earl Buxton's *General Botha* (London: John Murray, 1924). Biographies of Smuts include a work by his son, Jan Christian Smuts, *Jan Christian Smuts: A Biography* (New York: William Morrow, 1952); a laudatory work by N. Levi, *Jan Smuts* (London: Longmans, Green, 1917); Sarah Gertrude Millin, *General Smuts* (Boston: Little, Brown, 1936); H. C. Armstrong, *Grey Steel* (London: Arthur Barker, 1937); and a very good biography by F. S. Crafford, *Jan Smuts, A Biography* (Garden City, N.Y.: Doubleday, Doran, 1943). A compilation of his private and public utterances, 1933–1939, made by his private secretary, P. B. Blanckenberg, is *The Thoughts of General Smuts* (Cape Town: Juta and Co., 1951). Sir Keith Hancock, head of the Institute of Commonwealth Affairs in London, and Jean van der Poel of the University of Cape Town, who have access to the Smuts papers, are completing a biography of Smuts and preparing a "Smuts Archive." In the correspondence of J. X. Merriman of the Cape (in the South African Public Library, Cape Town) are numerous letters from Smuts discussing political questions. (Mrs.) P. Lewson has written "The Life of J. X. Merriman" (Univ. of Witwatersrand: M.A. thesis, 1952?); Sir Perceval Laurence has given a biased account of Merriman's role, *The Life of John Xavier Merriman* (London: Constable, 1930).

The National Party was organized in 1912 by J. B. M. Hertzog. In 1933 a large section of the Party united in a coalition with the South African Party; in 1934 these two groups formed the United Party. Biographies of Hertzog include C. M. van den Heever, *General J.B.M. Hertzog* (Johannesburg: A. P. B. Bookstore, 1946), a slightly briefer version of the Afrikaans edition, giving a good account of Hertzog's early life with some quotations (not properly footnoted), probably from his diaries; a manuscript on Hertzog by H. M. Moolman (New York: 1944), containing citations from Hertzog's diaries; Colin Rhys

Lovell, "Searcher on the Veldt, 1924–1939" (book in progress, 1956), based in part on his Ph.D. thesis, "Hertzog and the South African Nationalist Party" (Univ. of Wisconsin: 1947), 2 vols., and in part on subsequent research in South Africa. Documents of the United Party (in power until 1948, despite Hertzog's defection in 1939) are in the Party's office (Trafalgar House, Kotze Street, Hillbrow, Johannesburg). Jan H. Hofmeyr, who died in 1948, represented the United Party's liberal faction on native policy; see his *South Africa*, rev. by J. P. Cope (New York: McGraw-Hill, 2nd ed., 1952). A biography of Hofmeyr was written by Tom MacDonald in 1948 (Cape Town: Hurst and Blackett, 1948); another is being prepared by Alan Paton.

In 1934 a section of the National Party which did not join the coalition between the National and South African Parties was led by D. F. Malan. Hertzog tried to work out a basis of agreement with Malan in 1940 but failed. Hertzog and Havenga formed the Afrikaner Party in 1941. However, it did not remain independent long and supported the Nationalists in 1948. D. F. Malan is now writing his memoirs, using his personal papers, which will eventually be deposited in the Stellenbosch University Library. The records of the present National Party are in the Party's office (P.O. Box 404, Pretoria). Good accounts of political events since 1948 are given in "South Africa: Parties in Conclave," *Roundtable*, 40 (December 1949), 87–94; Rodney Gray, "South Africa Under the Nationalist Party," *International Journal*, 4 (Winter 1948–1949), 52–59; Gwendolen M. Carter, "Why Malan Won in South Africa," *Foreign Policy Bulletin*, 32 (July 1, 1953), 5–7; "Can Apartheid Succeed in South Africa?" *Foreign Affairs*, 32 (January 1954), 296–309, and "Union of South Africa: Politics of White Supremacy," *Annals of the American Academy of Political and Social Science*, 298 (March 1955), 142–150; Austin F. Macdonald, "Politics in the Union of South Africa," *Annals of the American Academy of Political and Social Science*, 288 (July 1953), 140–152. Popularly written and biased accounts of recent developments are Henry Gibbs, *Twilight in South Africa* (New York: Philosophical Library, 1953), and Robert St. John, *Through Malan's Africa* (Garden City, N.Y.: Doubleday, 1954).

Nationalist interpretation of South African history and views on political developments are reflected in Capt. J. J. McCord, *South African Struggle* (Pretoria: J. H. de Bussy, 1952), a book commissioned and published under the authority of the Nationalist Party. A good account of Afrikaner politics and cultural groups is Michael Roberts and A. E. G. Trollip, *The South African Opposition 1939–1945* (London: Longmans, Green, 1947); the authors omit mention of race problems. Eugene P. Dvorin examines the Nationalist racial policy in *Racial Separation in South Africa* (Chicago: Univ. of Chicago Press, 1952). A short analysis of some of the recent Nationalist legislation is in Henry John May, *The South African Constitution* (Cape Town: Juta and Co., 3rd ed., 1955). The extensive report of the Tomlinson Commission outlines one approach towards improvement of native affairs, which corresponds in part to the Nationalist views; see Commission for the Socio-Economic Development of the Bantu Areas within the Union of South Africa, *Summary of the Report*

(Pretoria: Government Printer, 1955), U.G. 61/1955. L. H. Samuels, among others, has critically examined the recommendations in three articles (*Cape Times* 1956). Regular government publications on native affairs include *Bantu*, appearing monthly (Pretoria: Information Service), and *Reports* of the Department of Native Affairs. The South African Bureau of Racial Affairs, SABRA (P.O. Box 238, Stellenbosch, Cape Province), presents the Government's views on *apartheid* in its publications. SABRA has published for several years *News Letter*, *Journal of Racial Affairs*, and a number of pamphlets on the affairs of natives and the relations between the races. Opposing views on racial affairs are expressed in the publications of the South African Institute of Race Relations, SAIRR (P.O. Box 97, Johannesburg). SAIRR regularly publishes a periodical, *Race Relations*, and various monographs and pamphlets. Edmund DeS. Brunner describes the racial tensions in the Union and mentions the Government's report on reserves in "Problems and Tensions in South Africa," *Political Science Quarterly*, 70 (September 1955), 368–386.

Parties that did not develop into major parliamentary forces were the socialist parties (1903–1920's), the Dominion Party (1933–1943), the Afrikaner Party (1942–1951), and the Communist Party (1921–1950). An historical review of the socialist parties and the Communist Party is included in Wilfred H. Harrison, *Memoirs of a Socialist in South Africa* (Cape Town: Stewart Printing Co., n.d., 1947?). A record of a Communist Member of Parliament is found in *Sam Kahn Speaks* (Cape Town: Communist Party, 1949). Biographies of two Party leaders are Edward Roux, *S. P. Bunting* (Cape Town: by Author, distributed by African Bookman, 1944); R. K. Cope, *Comrade Bill—W. H. Andrews* (Cape Town: Stewart Printing Co., n.d.). The Communist Party leaders worked actively with the natives in organizing trade unions; see Roux, *S. P. Bunting, op. cit. supra*). The Party's views were expressed in *We South Africans, 1946* (Cape Town: Communist Party, rev. ed., 1946).

Recently formed parties include the Liberal Party, Conservative Party, and Union Federal Party. Documents of the Liberal Party, which began its activities in 1951 with a program of support for the political and economic rights of the natives, are obtainable from all its division offices (e.g., 47 Parliament Street, Cape Town). The Party issues a monthly newsletter, *Contact*. Active leaders of the Party have included Alan Paton, Mrs. Margaret Ballinger, M.P., and her husband, Senator William Ballinger. The Conservative Party was organized in 1953 by several members of Parliament who left the United Party. The Union Federal Party was formed in 1953 by a faction of the United Party centered in Natal and has been led by Heaton Nicholls, former leader of the United Party in the Senate.

Results of elections from 1910 designating the distribution of party vote by districts have been collected by (Mrs.) C. van den Bos and compiled in "Elections" (Johannesburg: United Party, typescript, 1954). Records of votes and distribution of seats for each party are found only in newspaper files.

A number of the previously mentioned studies dealing with economic development in South Africa give insight into the activities of various parties while in control of the government. Notice should also be taken of other works, including the comprehensive report of the Carnegie Commission of investigation on the poor white question in South Africa, *The Poor White Problem in South Africa* (Stellenbosch: Pro ecclesia-drukkery, 1932), 5 vols.; the economic report was prepared by J. F. W. Grosskopf and the educational report by E. G. Malherbe. A study of economic development to the mid-thirties is M. H. de Kock, *The Economic Development of South Africa* (London: P. S. King and Son, 1936). A study of governmental activity affecting the economy is Frederik Josef Van Biljon, *State Interference in South Africa* (London: P. S. King and Son, 1939). *The Times* (London), particularly during the period 1910–1940, when Geoffrey Dawson, formerly editor of the Johannesburg *Star*, was editor, maintained a good coverage of South African affairs. Edgar H. Brookes refers to the economic and social affairs of the Union in *South Africa in a Changing World* (Cape Town: Oxford Univ. Press, 1953). A special issue of the *South African Journal of Economics*, 22 (March 1954), is devoted to an analysis of the economy, 1933–1954. A recent discussion is Sheila T. van der Horst, "The Union of South Africa: Economic Problems in a Multiracial Situation," *Annals of the American Academy of Political and Social Science*, 298 (March 1955), 71–83.

Pressure groups include the Afrikaner cultural organizations, employers' organizations, trade unions, and various non-European groups. Brief discussions of Afrikaner groups are given in Michael Roberts and A. E. G. Trollip, *op. cit.* (*supra*, p. 215), and Calpin (ed.), *op. cit.* (*supra*. p. 213). Ownership of newspapers is discussed in H. Lindsay Smith, *Behind the Press in South Africa* (Cape Town: Stewart Printing Co., 2nd ed., n. d.). An example of a politically effective employers' group is the Chamber of Mines. The Transvaal and Orange Free State Chamber of Mines (Main and Hollard Streets, Johannesburg), founded in 1889, issues periodical reports and a newsletter, *The Reef*. Other employer federations include the South African Federated Chamber of Industries, formed in 1917, and the Associated Commercial Employers.

Trade unions, since their formation in the early 1900's, have served in various ways as pressure groups. Sources are listed in Beryl Cooper, "Bibliography on the Trade Union Movement in the Union of South Africa, 1920–1951" (Cape Town: School of Librarianship, 1953; London: typescript, 1953). An early record of the chief trade unions in the twenties was Ernest Gitsham and James F. Trembath, *A First Account of Labour Organisation in South Africa* (Durban: E. P. and Commercial Printing Co., 1926). The strikers' view of the government's action in the 1922 strike was given in Transvaal Strike Legal Defence Committee, *The Story of a Crime* (Johannesburg: The Committee, 1924). The resulting national legislation affecting workers was outlined in Sheila T. van der Horst, "Labour," in Ellen Hellmann (ed.), *Handbook on Race Relations in South Africa* (London: Oxford Univ. Press, 1949), pp. 109–157. H. J. Simons reviewed union history in "Trade Unions," *ibid.*, pp. 158–170. The worker in industry was described by J. D. Rheinallt Jones in Brookes *et al.*, *op. cit.* (*supra*, p. 213), pp. 232–264. Recent pressures upon the government were brought by trade unions in connection with the Industrial Conciliation

Bill and Workmen's Compensation Act: see South African Trade Union Council, *Memorandum submitted to Minister of Labour* (Johannesburg: mimeo., December 30, 1954, February 15, 1955, August 1955, October 4, 1955). The Union of South Africa, *Report of Select Committee on Industrial Conciliation Bill 1955* (Parow, Cape Province: Cape Times Ltd., 1955), lists the membership of trade unions and federations.

There were five major trade union groups after the recent realignment in 1955: the South African Trade Union Council (Secretary, Dolcie Hartwell, Sakers Corner, Eloof and Frederick Streets, Johannesburg), the largest federation which represents both white and colored unions; the South African Federation of Unions (George McCormick, President, South African Labour Party Club, Kerk Street, Johannesburg), which leans toward support of all-white unions; the South African Trades and Labour Council (Stat Plein, Johannesburg), which is a small group of the 1949 Council remaining outside the new Trade Union Council; the Coordinating Council of Trade Unions (Lucas J. van den Berg, Secretary, Pretoria), which is composed of unions supporting the government; and the South African Congress of Trade Unions (Leslie Masima, Secretary, Progress Building, Commissioner Street, Johannesburg), which represents and encourages African unions. Alex Hepple, leader of the Parliamentary Labour Party, discusses the Nationalist policy toward trade unions in *Trade Unions in Travail* (Johannesburg: Unity Publication, 1954).

The organization of non-Europeans into unions has been attempted frequently. Sources of African trade unions today are listed in South African Institute of Race Relations, Reference Library, "General Bibliography on Trade Unions with Special Reference to Africans" (Johannesburg: typescript, December 6, 1955). René M. de Villiers ably described the political organizations of Africans, Indians, and Coloreds in his section, "Politics," in Hellmann (ed.), *op. cit.* (*supra*, p. 217), pp. 511–533. Conditions created by racial tensions in industrial labor relations are referred to in Guy Routh, *Industrial Relations and Race Relations* (Johannesburg: South African Institute of Race Relations, 1952). Sheila T. van der Horst competently examines conditions of African labor in *Native Labour in South Africa* (Cape Town: Oxford Univ. Press; Juta and Co., 1942). The problem of gaining official status for African unions is analyzed by Julius Lewin in "The Recognition of African Trade Unions," *Race Relations*, 9 (1942), no. 4, pp. 111–116. In the twenties the Industrial and Commercial Workers' Union was formed: see Roux, *Time Longer than Rope* (*supra*, p. 214), and Marquard, *The Story of South Africa* (*supra*, p. 213), pp. 232–234. An extreme approach to labor problems is presented by E. S. Sachs in *The Choice Before South Africa* (London; Turnstile Press, 1952); Sachs, whose book is banned in South Africa, has been in England since 1952. W. S. Mare examines African organizations in *African Trade Unions* (Cape Town: Longmans, Green, 1949).

CONCLUSION

In this paper an attempt has been made to list some of the chief writings and research material on political parties and pressure groups in Australia, New

Zealand, and South Africa. Research undertaken in Australia and New Zealand, as indicated by published works and university theses, has been largely confined to historical and biographical investigations, with some studies of the economies, surveys of ideological trends, and analyses of elections. In the political sphere, the stress has been more upon descriptions of formal institutions than upon investigations of political processes. Much attention has been given to the investigation of trade union and labor party politics in Australasia; considerably less has been devoted to the non-labor parties. In South Africa, because of preoccupation with racial problems, very few comprehensive studies have been made of political parties and pressure groups. However, some significant political biographies have been written and others are now in preparation.

While much of the existing writing on these countries is of high quality and adequately covers the indicated subjects, there remain many profitable areas for research. There have been few general attempts to study Australian state politics using the plans and methods adopted by V. O. Key, Jr., in *Southern Politics in State and Nation* (New York: Knopf, 1949), or to stress the particular focus proposed by the Committee on Comparative Politics of the Social Science Research Council. All aspects of party politics in South Africa merit additional research. Some phases of labor politics and many features of non-labor politics are worthy of further investigation in both Australia and New Zealand. In none of the three countries have interest groups been studied along the lines illustrated by David B. Truman in *The Governmental Process* (New York: Knopf, 1951), nor have individual pressure groups, except for some labor organizations in Australasia, received extensive analysis. Because of the neglect of certain aspects of parties and pressure groups in these Commonwealth countries, challenging opportunities await the student of political processes.

BOOK REVIEWS

The State of the Social Sciences: Papers Presented at the 25th Anniversary of the Social Science Research Building, The University of Chicago, November 10–12, 1955. Edited by Leonard D. White. (Chicago: The University of Chicago Press. 1956. Pp. xiv, 504. $6.00.)

On the History and Method of Economics. By Frank H. Knight. (Chicago: The University of Chicago Press. 1956. Pp. vii, 309. $6.00.)

In the past quarter-century, the volume of work done in the social sciences has been overwhelming. The emergence of new doctrines and schools, the development of new specialties, and the application and refinement of diverse methods suited to specific inquiries have warranted some scepticism as to whether there prevails any consensus as to the scope, nature, methods, achievements, or even purposes of "social science"—save in the sense that its concern is human beings and the societies wherein they are normally found. Initially, *The State of the Social Sciences* gives further warrant to these doubts. On the one hand, it includes various discussions of the behavioral sciences, which seem designed, at least in part, for an imperialist venture into the realm of the biological sciences; on the other hand, a number of the speeches emphasize the need for the social scientist to be a humanist, though eschewing any ambition to swallow the humanities. The methods of the social scientist here noted range from the development of systems theory and the use of applied mathematical and symbolic logic in econometrics to the very different and diverse approaches of the analyst of administration, the cultural anthropologist, and the critical historian.

This fascinating collection of lectures thus illustrates many of the directions in which social scientists have ridden off within the past generation. For the present reviewer, however, its fascination does not consist simply in the sampling of diversity but rather in the revelation of the emergence of a broad yet limiting frame of reference within which social scientists are coming to work. They seem, indeed, to be clustering around what may be called a vital center, though, as is proper to social science, that center is no point, and the outlying circumference appears, like the universe, to be expanding. Their overall concern is human beings and the furtherance of human values; and enquiries which ignore persons in method, problem formulation, and statement of conclusions are now regarded as in purpose serviceable to man's values, revelatory of them, or critically creative for them. The long-lived quarrel between doctrinaire positivists and dogmatic jusnaturalists, which was in part extremism and in part illusion, seems to be vanishing. Overtones of the quarrel are heard, indeed, in many essays in this volume. But its deeper undertone is their irrelevance to the actual practice of leaders in the field as they go about their respective businesses. Their unintentional contribution to hopefulness for the social sciences lies in the implication of a spreading maturity of outlook which makes debate over methods and theories relevant and creative rather than frustrating and wasteful.

Symbolically, the book opens and closes with reasoned pleas for a broad but disciplined humanistic approach. Both, not unsuggestively, are by professional economists who have transformed themselves into professed social philosophers. In discussing "Science, Society, and the Modes of Law," Frank Knight nicely combines a sense of the breadth of human concerns and the depth of human richness in imperfection with a scepticism as to facile analysis and doctrinaire program and a characteristic intolerance of pseudo-intellectual poppycock. F. A. Hayek concludes the book with a penetrating essay on the dilemma of specialization, which he is well aware can not be entirely overcome. His essay is at root a plea that the rightful concerns of the respective schools of positivism and jusnaturalism are in essence complementary.

The essays that lie between are classified in three groups, purporting to deal with social science as science, social science in relation to the civic arts, and social science in relation to the humanities. The first section, therefore, deals with matters frequently put under the rubric of positivism and sometimes made the whole of social science. It covers the answering of questions as to the how of man's functioning: examination of the possibilities and limits of deductive prediction from generalized description; consideration of many bothersome issues related to experiment and extrapolation, to probability, and to the possibilities of a general field theory analogous in ultimate aspiration to Einstein's equations. It includes also inquiries about personality structure and the dynamism of persons, their potentialities for adjustment and maladjustment and the limits therof. It goes into issues of generalization and differentiation between cultures; their implications as as to the degree to which, and the depth at which, common values (if any) may be discovered; the nature of the differences in problems which differentiate cultures and are consequent on diverse values; the implications thereof for human possibilities. What is most impressive, however, about this section is that the contributors are not concerned with dogma and aggression in the name of positivism. They are tremendously interested in critical exploration not only of the uses but of the limits of their specialties. They are aware of the need to move from crude empiricism into field theory. They are conscious that such theory is not free from assumptions or postulates. They see that assumptions and postulates are themselves subject to critical testing, at least by their fruits as measured by their utility in explanation and further exploration. Finally, though they are impatient of eternal verities that contradict observed fact, they reveal a genuine awareness of the ultimate importance of value and value-theory.

Clyde Kluckhohn is concerned to work out criteria for classifying cultures by value clusters. Such an undertaking is surely of major concern to the moral philosopher, who can neither formulate general ethical theory nor comment significantly on questions of practical moral judgment without reference to an empirical component, not to be derived solely from introspection nor from the great literature of ethics. Harold D. Lasswell discusses the "Impact of Psychoanalytic Thinking on the Social Sciences" and presents an assessment and a sober judgment of its future which show a striking growth from his own beginning in that field. James G. Miller, in an essay "Toward a General Theory for the Behavioral Sciences," develops some interrelated hypotheses which constitute a searching attempt to work toward general laws of social dynamics. Yet he notes that a vast, and perhaps at present partly impossible, testing would be needed to confirm or disprove the actual propositions. I am delighted at the caveat, but I think that awareness of the need for theory of this order is at least equally significant. Nevertheless, formulations of behavioral theory may result in exaggerated confidence in particular ways of looking at things. Herbert A. Simon and Allen Newell call attention to such dangers, brilliantly analyze the uses and limitations of models, and make some cogent reflections on the respective advantages and drawbacks of mathematical and linguistic formulations. They note that, while the former, by their very abstracting, facilitate manipulation in the drawing and testing of inferences, they lose richness in that process and *thereby lose precision.*

The following essays assess recent achievements and methods in various areas of empirical research. They are not all of equal value, but nearly all provide valuable insights or useful information. In my judgment, Everett Hughes's comments on "The Cultural Aspect of Urban Research," while not oriented deliberately to the study of municipal government, are especially worthwhile, since that study has tended to be either grimly formal or too emphatic on issues which raise questions for government action. Somewhat differently, the essays by George J. Stigler on "Industrial Organization and Economic Progress" and by Jacob Viner on "Some International Aspects of Economic Stabilization" may prove enlightening for the political scientist who ventures, as he ought to venture, into the realm of economic policy. It is paradoxical that, in a period when the restoration of the primacy of the political has rendered "Political Economy" once more a meaningful term, and when political scientists have discovered the necessity of attention to economic problems, actual communication between members of our guild and economists has generally declined. This may be due partly to the prevalence of mathematics in the realm of the economists and the cult of econometrics, but also, I think, to our own failure to develop an architectonic structure for organizing our observational endeavors, and also, conceivably, to the impact of New Deal reformism within our guild, the modern demand for administrative know-how, and the impact of Veblen and of institutionalist economics. These essays emphasize our need and also proffer a bridge toward economic study, especially if read in conjunction with the more technical expositions of economic doctrine in Frank Knight's book reviewed herewith.

Three essays, by David Riesman, Walter Lippmann, and Lawrence A. Kimpton, lead us into the application of social science in the making of policy. Together, these constitute an interesting assessment of traditional discipline, modern cross-fertilization, and the emergence, uses, and limitations of new social sciences: a series of issues which Reisman treats with sympathetic understanding, critical scepticism, and suspended judgment. The proper relationship between practitioners of statecraft and social scientists as both philosophical and technical experts is a theme on which Lippmann animadverts briefly but incisively; while Kimpton makes a nice plea that the social scientist must not confuse theory and thesis.

Applications of social science are then sampled by three pairs of essays. The first pair, by Roy Blough and Theodore W. Schultz, are concerned with the role of government in promoting, respectively, economic stability and growth. They not only emphasize the significant relation between growth and stability, as well as their potential conflict, and thereby squarely raise interrelated issues of possibility and desirability, but also further emphasize the role of economic theory and the dangers of neglect thereof by political scientists. Two essays on administration provocatively explore the need and role of theory and the troublous issues of gearing the knowledge of the social scientist to the know-how and organizational doctrine of the skilled operator. Two essays on diplomatic negotiations, one of which is by Hans Morgenthau, agitate anew those difficult issues of foreign policy to which we have latterly given great attention; they consider what is the appropriate American position, itself a major determinant of the future. These six essays are humanist in viewpoint without deliberate formulation or defense of humanism. They are happily notable for an absence of commitment to the elitism of the expert and an awareness that, while technical expertise is requisite to the effectuation of public policy, its services are those of handmaiden.

The final group of essays, by professed humanists, also give promise of the elimination of needless battles of the schools. They reveal an awareness of the relation of humanistic principle to history and also an awareness that tradition must relate to the changing social universe. Of these four essays, the concluding essay by Robert Cushman on guilt by association may appear not strictly to belong, since its concern is the specific issue of investigations of loyalties and beliefs and the nature of true and false inference from membership in associations. Yet it deserves its position, since it draws the consequences of the others in a strong plea for a decent and moderate attitude in the conduct of necessary inquiries, to defend humanistic values and to avoid the use of an unrealistic doctrinaire liberalism in fighting against irrationalism. Leo Strauss, in his "Social Science and Humanism," suggests that "the most pressing question for social science today" is the question whether there is any solid basis for the qualified relativism in which many humanistic social scientists seek a middle ground between relativism and what is called "absolutism." His essay is notable as an example of the good sense that increasingly marks the better natural-law theorists and profoundly characterizes his own analytical writing. The remaining statements of the humanistic position are left to historians. In a delightful essay, James L. Cate, medievalist, pleads under the intriguing title "Humanism and the Social Sciences: But What About John de Neushom?" that the historian provides us with proper cautions as to predictability: picturing for us actual men in actual life, he helps us to avoid the vitiating generality of mass analysis and statistical probability. *Per contra,* though there is no real conflict, Louis Gottschalk, in discussing the historian's role, insists that hopes that detailed empirical research will of itself bring truth are misguided and futile; to communicate at all is to generalize, and when we generalize we are in the realm of theory.

At this point I return to Frank Knight, whose long-sustained work in economics has concentrated on the very issue of sound generalization. The chief enemy thereof, he has properly seen, is *questions mal posées*, whether through absence of sufficiently hard and precise thinking or through uncritical acceptance of frames of reference and climates of opinion of a given time. In his broader philosophic writing, Knight has for decades been clearing the ground by attacking the misguidedness of unalloyed positivism in the social sciences and by demonstrating the inherent differences in the subject matter of pure and social science and the implications of these differences. *On the History and Method of Economics*, a volume of essays collected and edited by his students, contains both statements of his methodological principles and excellent demonstrations of his technique and its outcome. Here reprinted are his savagely courteous decapitation (1947) of Lundberg's scientism and his critical dissents from MacIver's analysis of social causation. The essay "Social Science," originally delivered in 1940, gives a more positive statement of his critical position, which is further developed in "The Rôle of Principles in Economics and Politics" and "Free Society: Its Basic Nature and Problems."

While Knight does not so formulate it, his whole treatment of social science is, first of all, the plea that we must at least start from common, or good, sense; and that the most serious errors and extremism have resulted from a failure, which *a priori* would have seemed improbable, to observe the widest and most insistent data of the external world and of man himself, though these were constantly before us; or to make the simplest and seemingly most imperative inferences therefrom. Secondly, he urges, in part again by inference, the need to achieve the proper sort of disinterestedness, never completely available, in the form of hard-earned detachment from particular unexamined assumptions and facile generalizations of our own time and place. Such an attitude does not require unconcern for human welfare and humane values. These last must be pursued from within the existing context, but unpositivistically; when their respective rôles and contents are properly formulated, there is no conflict between social science and humanism.

Thomas I. Cook.

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Communism and Nationalism in the Middle East. By Walter Z. Laqueur. (New York: Federick A. Praeger. 1956. Pp. xi, 362. $6.50.)

Mid-East: World-Center: Yesterday, Today, and Tomorrow. Planned and Edited by Ruth Nanda Anshen. (New York: Harper and Brothers. 1956. Pp. xiii, 386. $6.50.)

Israel: Its Role in Civilization. Edited by Moshe Davis. (New York: Harper and Brothers. 1956. Pp. xvii, 338. $4.00.)

Israel and the United Nations. REPORT OF A STUDY GROUP SET UP BY THE HEBREW UNIVERSITY OF JERUSALEM. (New York: Manhattan Publishing Company. 1956. Pp. 322. $3.00.)

Though still probably two or three "brinks" away from the Soviet orbit, as of the time of writing, the Middle East has nevertheless proceeded far along the road toward emancipation from Western political and strategic controls. In the light of the progressive decay and abnegation of the Western power position in the postwar years and the corresponding rise of Soviet influence, especially since the summer of 1955, communism and nationalism in the Middle East has become a theme of vital significance. But Walter Z. Laqueur has not responded to the opportunity. The value of occasional stimulating and thought-provoking sections—in particular, his brief appraisal of Russia's re-emergence as a Middle East power and his overall conclusions—is virtually erased by scholarly pretense and fuzzy analysis. In these respects, he has let the reader down on almost all counts.

To begin with, the title is misleading. Coverage of the communist parties in the Arab States of the Fertile Crescent, in Egypt, the Sudan, Turkey, and Israel, fills fifteen chapters. The parallel treatment of nationalism is crowded into a single slim chapter; and even then the discussion is confined to a small number of groups espousing religious fundamentalism or political extremism. The author correctly notes that such emphatic nationalism together with communism is playing into the Soviet hand. Yet the fact remains, as has become manifest in the unfolding crisis of July–November 1956, that it is neither the communists nor the religious fundamentalists nor even the crackpot nationalists who seem to be leading certain Arab States into the embrace of the USSR. Rather are the respectable nationalists, of the stripe of Gamal Abd-al-Nasir in Egypt or the resuscitated Shukri al-Quwwatli in Syria and their associates, falling into the Kremlin's trap. There are fleeting references to this phenomenon, especially in the concluding chapter. But Laqueur does not explore its causes or its implications.

He never clearly distinguishes between pro-Soviet sentiment and communism. Both have contributed, in effect, to the draining of the Western power position and may in the end produce the same result. Yet the appeal of the USSR in the Arab East is much greater than the appeal of communism. Laqueur's own statistics on the size of the communist parties in the Arab lands covered—an estimated total of 30,000 to 36,500—eloquently demonstrate this point. The fact that the leaders and the rank and file in many of the parties have been recruited from among the non-Arab minorities further reduces the potential communist danger. On the other hand, Russia's territorial expansion into the Middle East has been accomplished at the expense of Turkey, Iran, and Afghanistan, but not of the Arab states. Consequently, the USSR starts out with a clean slate in the Arab zone, where imperialism has come to be equated in the popular image with Britain, France, Italy, and Israel. This problem Laqueur has failed to investigate systematically.

Nevertheless, the serious and comprehensive study of communism in the

Middle East has gone begging for an author. Anyone who has attempted to assemble reliable data on the several parties readily appreciates how tricky the process is. Laqueur has laid his hands on an astonishingly large assortment of such materials (illicit internal broadsheets, brochures, and party organs richly represented among them) in the major Middle East as well as European languages. This in itself would have proved invaluable. But the materials thus collected have been thrown together seemingly with great haste, little criticism or discrimination, and almost no organization other than geographic and chronological. The detailed description of the several communist parties reads less like a cohesive, carefully constructed narrative than like raw intelligence of the variety gathered by a government agency. Indeed, internal evidence suggests that many of the primary materials were made available to the author by an intelligence unit of a Middle East government.

This in itself would not be reprehensible. One calls to mind many excellent works by scholars and others who enjoyed privileged access to official archives. But Laqueur's scholarship is most untidy. His habit, in the notes, of omitting page references and at times even mention of the authors' names in periodical literature and other works to which he was indebted may be annoying but is pardonable. Wholly inexcusable, however, are Laqueur's inaccurate attributions, erroneous dates and data, and, above all, slipshod handling of citations. Thus, one reads (p. 15) that "George Antonius begins his work on the *Arab Awakening* with the following words: 'The story of the Arab national movement opens in Syria in 1847 with the foundation in Beirut of a modest literary society under American patronage . . . when five young men who had been educated at the Syrian Protestant College formed a secret society. . . .' " An examination of the original reveals that the first half of the quotation appears on p. 13 of Antonius' book, and the second on p. 79. The fact that the Syrian Protestant College was opened in 1866—well-known to Antonius—entirely escaped Laqueur's notice. If this were an isolated mistake, it would not be worth recording. But comparable liberties taken with a sampling of citations that could easily be checked raise serious doubts about the accuracy of the many that could not.

The shoddiness of Laqueur's study stands out starkly alongside Bernard Lewis' short but penetrating chapter on "Communism and Islam" in *Mid-East: World-Center*. Lewis notes that widespread Muslim disillusionment in the West, social and economic discontent, and the recruitment to the communist cause of "the aspiring mechanics" (i.e. the urbanized peasantry) have weakened the defenses of the Muslim world against the incursion and growth of communism. He then goes on to call particular attention to the authoritarian traditions of Islam, as perhaps the gravest danger of all. "The traditional Islamic autocracy," states the British historian, "rests on three pillars: the bureaucracy, the army, and the religious hierarchy—and we may be witnessing a return to this pattern in the recent changes in Egypt. In this pattern only the third, the religious hierarchy, need be changed in order to prepare the way for a Communist state."

The Lewis piece, with only minor modification, was reproduced from *International Affairs.* In fact, one of the chief criticisms of *Mid-East: World Center,* edited by Ruth Nanda Anshen in collaboration with Ernest Jackh, is the general lack of originality. In the case of George Sarton's chapter on Arab scientific literature in the Middle Ages, failure to mention its earlier appearance in *Near Eastern Culture and Society* (Princeton, 1951) can doubtless be ascribed to oversight. It might perhaps be argued, to judge from the eminence of many of the contributors, that *Mid-East: World Center,* Volume VII of the Science and Culture Series and the first in the series to focus on a geographic area, was designed to provide a forum, not for original research, but for the authoritative distillation of existing scholarship in a wide range of disciplines. These laudable purposes are clearly served by E. A. Speiser on the ancient Near East, Majid Khadduri on the transition in Islam from religious to national law, Charles Issawi on economic and social conditions, and Mehmet Ağaoğlu on the character of Islamic art. Yet the volume as a whole suffers from great unevenness. The chapters by Harold B. Hoskins on oil and Taha Hussein on education are on an elementary level. At the other extreme, Edwin E. Calverley's Quranic exegesis represents impeccable scholarship, as does the analysis of the structure of the Arabic language by Louis Massignon. Yet both explore topics of such narrow appeal that the propriety of including them in a work of this sort may be seriously questioned.

George Lenczowski's suggestive analysis of political institutions in the Middle East may be contrasted with Jacob Robinson's "A Democracy in an Autocratic World" in *Israel: Its Role in Civilization.* These institutions, Lenczowski declares,

> can be properly understood only if due attention is paid both to the formal institutional framework and to the substance of political behavior. Where the two elements come close together, as is the case of modernized [Turkey and Israel] and of patriarchal [Saudi Arabia, Yemen, and Afghanistan] societies, harmony and stability tend to prevail. But where the form and the content are far apart [Egypt, Jordan, Lebanon, Syria and Iraq], there is tension and instability. The intermediate category of states constitute the "problem area" of the Middle East today. Their body politic is diseased, their statecraft weak, their politics turbulent.

Lenczowski's classification, while somewhat oversimplified, nevertheless helps to measure the dimensions of the problem that Robinson raises, for it is not so much the autocracy of the surrounding states that threatens democracy in Israel as it is the political turmoil that has overtaken them. Still, Robinson's "study in political symptomatology" is well worth pondering. The volume in which it appears belongs to the same genre as the one edited by Anshen. Of the two, however, the symposium edited by Davis, while more limited in appeal, is better integrated and the individual pieces are of relatively more uniform quality. The papers were originally read in 1952–1954 before the Israel Institute of the Jewish Theological Seminary. Among the more incisive contributions of interest to political scientists are Ambassador Abba Eban's "Nationalism and Internationalism in Our Day," Leo Kohn's "The Emerging Constitution of

Israel," Howard Mumford Jones' "The Land of Israel in the Anglo-Saxon Tradition," and Selig Adler's "Backgrounds of American Policy toward Zion."

Israel and the United Nations forms part of a series of twenty-three national studies (including Egypt and Turkey among nearby Middle East states) on international organization. The studies were sponsored by the Carnegie Endowment for International Peace in anticipation that the question of Charter review would be inscribed in the General Assembly's agenda in 1955. Among the first to appear in print (apparently not all will be published), the report on Israel is a well-written, thoroughly documented and generally frank appraisal. The study group, comprising nine members of whom four were enlisted beyond the Hebrew University campus (among them a legal adviser to the Foreign Ministry), have struck an appropriate balance in discussion between the unfolding official policies and the shifting emphases of public opinion. The authors, however, have neglected to assess the degree to which official policy helped mold public opinion on the United Nations and vice versa. Still, the report presents the best statement in English not alone of Israel's attitudes and actions in the UN but of the factors that entered into decision-making on some of Israel's major external problems between 1948 and 1954.

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The Middle East in World Affairs. BY GEORGE LENCZOWSKI. (Ithaca: Cornell University Press. 2nd Ed. 1956. Pp. xx, 576. $7.25 Trade Ed., $5.50 Text Ed.)

Diplomacy in the Near and Middle East: Volume I, A Documentary Record: 1535–1914; Volume II, A Documentary Record: 1914–1956. BY J. C. HUREWITZ. (Princeton: D. Van Nostrand Company, Inc. 1956. Pp. xviii, 289; xviii, 427. Vol. I, $5.00; Vol. II, $6.50.)

In the second edition of his very useful work, Dr. Lenczowski has bridged the four years since the first edition appeared. These have been eventful and meaningful years, as is attested by a twenty-five per cent increase in the size of the volume. At the time of first publication of the book (1952), the situation in the Middle East, from the Western point of view, while laced with dark portent, was still hopeful. Moves of the Soviet Union to take advantage of postwar readjustments for establishing bridgeheads in the Middle East had been checkmated—in Greece, Turkey and Iran. The North Atlantic Treaty Organization had been extended to the eastern boundary of Turkey, and the United States, relatively a newcomer to the area, planned optimistically to cement friendly ties with the West through various forms of aid under Mutual Security legislation. If attempts to bring the states of the Arab Middle East into a Western-oriented defense organization were being thwarted by an upsurge of Arab nationalism and if dictatorships and communist infiltration posed difficulties, Great Britain, while under increasing pressure, still was entrenched at several points, including the Suez Canal Zone in Egypt.

These matters all were treated competently and in considerable detail in the author's first edition. They now provide the background for the second edition, which is not so much a revision as it is a projection of the first. By and large, the account of the intervening four years traces the growing prevalence of the dark portents noted earlier: the withdrawal of Britain under pressure from position after position; adherence of the Arab states to a species of neutralism and their growing intransigence; policy shortcomings of the Western powers. The author quotes an observation that "the United States succeeded in four years to do what took Britain thirty years, namely to antagonize the Middle East."

In concluding his recent assessment of the forces at work in the area, Dr. Lenczowski could not quite foresee the crisis resulting from the Egyptian seizure of the Suez Canal Company's operations, but these late events follow accurately the course he had plotted. He is almost prescient in his final remark: "One may well ask whether the American ideals of democracy and self-determination have not too often been subordinated to expediency, thus robbing American policy of the moral advantage that it once possessed and that it might well try to regain in the present revolutionary era in the non-Western world." It would appear, indeed, that, since the Suez crisis, United States policy is pursuing this very line of thought and action.

Dr. Hurewitz's stated purpose in preparing his collection of formal documents has been "to unfold European diplomacy in and on the Near and Middle East in modern times and, only secondarily, to illustrate the coincident aspects of intraregional international politics." To this end, he has selected for presentation 228 key documents representing a wide variety of subject matter: treaties and agreements of many kinds, proclamations, concessions, decrees, notes, proposals, reports, laws, and policy statements. The documents, set forth in chronological order, from the Turkish capitulation of 1535 in the interest of France to the Soviet-Iranian exchange of notes on the Baghdad Pact in November–December 1955, have been chosen judiciously. The historical importance of each item is brought out in a succinct, scholarly introduction supplemented by a brief list of references to treaties relating to the setting from which the document was taken. The two volumes thus constitute a syllabus for a fairly thorough course of study on the modern Near and Middle East. The growing complexity of diplomatic relations as the modern era has advanced is suggested by the fact that, with each volume containing 114 documents, the second is nearly fifty per cent longer than the first.

This documentary record provides background for such works as that of Dr. Lenczowski. Its usefulness, however, does not end with the professional scholar, who will find in these volumes a handy compendium of some of the most significant conclusive acts of the past four centuries. The public official concerned with the conduct of foreign relations can profitably refer to these documents as a guide in the everlasting task of reassessing and formulating lines of national policy. The young and serious student, of course, will find here some of the raw material of which history is made and perchance will gain some inkling from these illustrative papers of the fact that, at best, textbooks are but brief synopses of the thought and action of the architects of history.

HALFORD L. HOSKINS.

Library of Congress.

How the Soviet System Works: Cultural, Psychological, and Social Themes. By Raymond A. Bauer, Alex Inkeles, and Clyde Kluckhohn. (Cambridge, Mass.: Harvard University Press. 1956. Pp. xiv, 274. $4.75.)

For several years the Russian Research Center of Harvard University has been giving the scholarly world excellent studies on various aspects of the Soviet system. This most recent study, made jointly by a psychologist, a sociologist, and a social anthropologist, and based on interrogations of several hundred Soviet refugees and on questionnaires filled out by several thousand of these *émigrés*, concerns the operation of Soviet society. As the authors indicate, the study is "a fresh look at the Soviet system in the light of those data." Many of the data on which the authors based their findings are dated as of 1940, the year when the largest numbers of refugees had been personally a part of the Soviet system. This material, however, has been supplemented by life-history interviews and questionnaires given to Soviet *émigrés* who left the USSR after the end of the war, some of them as late as 1950. This book is more than just a report on interviews and questionnaires, for the authors have interwoven observations based on those data with interpretations of Soviet life available in current scholarly literature. The book does not reveal any new characteristics of the Soviet system with which scholars have been unfamiliar, but it does give, more than any other work so far, a penetrating analysis of the factors and forces which make up the Soviet social system.

The authors emphasize that the system is one of "total statism" with the party directing the government, the party elite leading the party, and power and the application of terror centralized. The authors point out that, on the basis of their data, the refugees' social class and occupational status determined their attitudes toward the Soviet system. In delineating the institutions at work in the Soviet system which mitigate against total concentration of power, the one considered by the authors to be least under the control of the central authorities is the family; next is the church. One of the most valuable aspects of the book is the discussion of the informal adjusting mechanisms in the Soviet Union which enable the system to operate in spite of the intensive concentration of power. This section points out the disparity between the code by which the Soviet organization is supposed to work and the way in which it actually works. The reader is given an excellent insight into "blat," which is the Soviet form of personal and group accommodation by mutual back-scratching.

The attitudes of the *émigrés* toward the Soviet social system represent on the whole a willingness to go along with the socialist features of the system, accepting as a matter of course the welfare aspects of the system, e.g., education, public health, and social insurance, taking pride in the Soviet accomplishments in the arts, sciences, and sports, and in the strength of the Soviet armed forces. The opposition of the *émigrés* to the system, however, is directed against the "absolutist terror," which is not so much the fear of the secret police as it is the abusive use of police power. The other principal aspect of opposition of the Soviet citizenry to the régime is engendered from the collective farm system, which is not accepted by the Soviet peasantry. Other complaints are directed against poor housing, inadequate clothing, and the short supply and high cost of food, coupled with an unvaried diet. It is not so much the system of the Soviet Union that antagonizes the people, reflected by the *émigrés*, as the régime that operates the system. This is expressed in the hostility of the *émigrés* against the formal leaders, the Communist Party, and the secret police. The authors' other finding of particular significance is the importance of ideology in Soviet society. Ideology not only determines the goals of the society, but also influences the participation of its leaders in the society. The authors believe that the problems which the régime creates are due primarily to the overcommitment of human resources to the system.

Notwithstanding a considerable amount of discontent in the USSR, the authors believe that there is only "a relatively small amount of disaffection and disloyalty." Another challenging observation is that, though the people in the Soviet Union work at jobs assigned them in a régime which they do not especially like, their work is not seriously affected by having to work for such a régime; but this does not appear to be true of the Soviet agricultural workers. The city worker is inclined to accept the system, while the peasant, in the authors' language, is "the angry man of the system." As Drs. Bauer, Inkeles, and Kluckhohn say," the life histories of our respondents indicate that the stability of the Soviet system involves a nice balance between the powers of coercion and the adjustive habits of the Soviet citizenry." These conclusions might be disheartening to those who believe that the erosion of despotism, often referred to by Secretary Dulles, will do much to destroy the Soviet system. On the contrary, the authors believe that if the régime gives the people more consumers' goods and better housing, eases up on terror, allows the peasant to be more free from collectivization, and modifies the very rapid pace to which the people are subjected, the system will become much stronger.

While this book is a most valuable statement of the operation of the Soviet system, as explored through systematic interrogation of hundreds of Soviet *émigrés*, its presentation of this material could be greatly improved. The uneven style of writing may be due to its having three authors instead of the usual one. Better integration of the material could have been made, to eliminate the great amount of repetition. The opposition of the peasants to collective farming, the importance of class and professional interests in motivating attitudes toward the Soviet régime, the unimportance of national differences in conditioning attitudes, and the resentment of the Soviet citizenry against living under a system of terror—all important features of the system—need not be reaffirmed in chapter after chapter. In spite of these editorial faults, the book is a very valuable addition to the impressive library of works produced by the members of the Russian Research Center at Harvard University.

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The Loyal and the Disloyal: Social Boundaries of Patriotism and Treason. By MORTON GRODZINS. (Chicago: The University of Chicago Press. 1956. Pp. x, 319. $4.00.)

Morton Grodzins has written a thoughtful and stimulating though somewhat disjointed book exploring the slippery concept of loyalty. The subject is approached from many angles and at many levels. This is at the same time the book's weakness and its strength. Because of this approach, the writing seems now and then to come to a complete stop and then start all over again. The result is that basic points are made more by repetition than by logical development. Mr. Grodzins has perhaps also made the mistake of presenting not one but many theories of disloyalty. At least the different facets of a single theory, if that they be, are not as carefully integrated as one could desire. But, taken chapter by chapter, this is an extremely useful book. For example, a chapter called "The Traitriot" is aimed at the lay reader and endeavors with considerable success to get across the basic truth that there is something of the patriot and something of the traitor in every man. And then again, in a brief chapter dealing with "Accidents, Personality, and Ideas," Grodzins writes a lively essay for his friends in sociology and psychology on the relative roles that these three forces play in producing disloyalty.

Grodzins' basic concept of loyalty is a highly pluralistic one. "Modern man has a variety of groups, causes, and leaders to choose from. His loyalties are as fluid as his career and as numerous as the segments of his life" (p. 14). Loyalty to nation in a democratic society is relatively new, and it is indirect. Thus it must find its strength in older and more limited attachments, in loyalty to family, to friends, to job, to race, and to church. When the nation strengthens these weaker groups, it "becomes modern man's largest point of reference" and wins his loyalty. But "when state policies conflict with the welfare of primary groups and choices have to be made, the stage is set for crisis, and national disloyalty is more likely to result" (p. 129). But, even then, treason is extremely difficult to commit. In a democratic state in particular, there are so many opportunities for easy and partial protest that the truly traitorous act occurs only as the result of an unusually rare and fortuitous combination of circumstances. Loyalty is also a highly relative concept. "The same act at a given time may be loyal in one context, disloyal in another; it may, without variations in place but with the passage of time, be judged in contradictory terms" (p. 17). This very vagueness of the loyalty ideal makes it easy for the individual to tolerate severe strains resulting from intergroup conflicts.

Grodzins tests out his theories in many different contexts. Data concerning such disparate groups as scientists, butchers, night-club waiters, Japanese-American evacuees, and citizens in totalitarian countries are examined, and forces conducive to loyalty and disloyalty among such groups are analyzed. For example, in totalitarian regimes the author finds that loyalty to nation is strengthened because it is direct and monolithic, but weakened where it is not reenforced by small-group loyalties. Thus, in theory at least, when the "direct tie with nation snaps, all life must be reorganized. No resources for patriotism remain" (p. 173). Unfortunately the outlook for revolution in such lands is not promising, for, in reality, many small-group loyalties are permitted if not actually encouraged.

A close look is taken at the treatment of Japanese-Americans during World War II and at the forces that led some six thousand of these people, when provided with a formal opportunity to do so, to refuse to reaffirm their loyalty to the United States. The most important finding that emerges from this analysis is that disloyalty was most prevalent in the relocation centers in which living conditions were most unsatisfactory. While this might seem like elucidation of the obvious, the finding becomes impressive when translated into a hypothesis that practical forces outweigh "conviction" in producing disloyalty; that "ideology" unsupported by a disappointing "life-situation" seldom leads a man to turn traitor. In Grodzins' words, "disloyal acts are probably less frequently the consequence of mature deliberation than of immediate reaction to unhappy circumstance" (p. 227).

As Grodzins suggests, scientific insights can be consciously used both to build loyalties and to destroy them. And it is his sad but persuasive conclusion that, while we have not in this country consciously used such insights to produce disloyalty, we have unconsciously been working toward such an end. To this reviewer the book's greatest value lies in its demonstration of the unscientific and irrational premises upon which so many of the loyalty investigations and tests of the last decade have rested. Take, for example, "alienation" as a force conducive to disloyalty. As Grodzins says, "Destroy [a man's] career, disrupt his work and play groups, isolate him, persecute him, show your disdain for him, and you plant the seed for his disaffection." The result is likely to be "men wandering in the alleys—angry, embittered, and perhaps waiting to strike back." This leads to the obvious but seemingly unpopular conclusion that "a loyalty-security program worthy of its name would, above all else, attempt to build and not destroy democratic loyalties in the process of maintaining the nation's security" (p. 236).

This book might well have been entitled "Some Thoughts on Loyalty." But, while modest in its scope, it contains more than a little wisdom and is easily one of the most searching and provocative studies that have yet been made on the difficult and important subject of loyalty in a democracy. One hopes that Morton Grodzins will carry on from such a promising beginning.

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Pioneer Public Service: An Administrative History of the United Canadas, 1841–1867. BY J. E. HODGETTS. (Toronto: University of Toronto Press. 1955. Pp. ix, 292. $5.50.)

Professor Hodgetts' excellent administrative history of a formative period in the evolution of Canadian institutions, like all good administrative histories, has value to the student of government generally. He records factors peculiar to the time and place, such as the gesture of reconciliation of two cultures provided by the rotation of the capital between Toronto and Quebec. But as this is the period following upon the Durham report, we see in Professor Hodgetts' chapters the unfolding of fundamental constitutional issues as well as the evolution of functions, organization, and procedure. We witness, through this time of initiation and invention, the passage from a remote and partly alien colony to a discernible Dominion in the future. For the author has balanced his chapters of careful recording of the major substantive functions and agencies —natural resources, public works and transportation, Indian affairs and agriculture—with appropriate treatment of the wider political controls and the inner organization and procedure.

Such a treatment of material introduces the reader at once to the transfer of administration of specific functions—such as immigration regulation—from London to Canada, to the foundation of central controls, or an approach to this, in the hands of future Canadian prime ministers and cabinets equipped with Treasury Board staffing; to Canadian parliamentary controls including audit; and to the establishment of the position of deputy minister, which was to become the top career post, advisory to the political head, in the ultimately better integrated major departments of government. And there is in 1857 the establishment, following closely upon the like move in England, of a Civil Service Board, as a kind of token payment of more substantial development of general civil service standards in the present century.

The scope and careful scrutiny of Professor Hodgetts' treatment acquaints us with the problems, with which the United States is only too familiar, which accompany the transition from an extractive economy, a variety of cultures, and a youthfulness of institutions, to urban and interdependent conditions of life, albeit still in the setting of a vast sub-continent; and with the influence of those voluntary regional and professional associations that helped to shape the evolving public institutions. Thus he records the problems of patronage and corruption, the effort to make agencies "self-sustaining," the tug of local pressures on field operations and personnel, the rarely-to-be-achieved adjustment of the specialist, backed by professional associations in law, engineering, or medicine, to the lay administrator and political chief. The evolution of department integration, at the center and over the far-flung field services, and the step-child status of the Indian wards stir comparison in the mind of the Yankee reader. Professor Hodgetts notes that the spoils system did not include the shock of wholesale dismissals that one associates with a party overturn in the United States. Is the fixity of election dates (an "astronomical" system, said Woodrow Wilson) in the United States, as against the more uncertain time of overturn in Canada, a factor here?

All this development is rightly placed by the author in the frontier setting, modified by the pressures of claimants and the stir of life at the capitals, including the remote one, London. Is there more to be made of the influence of the idea of the Crown, whose wearer in this period performed the important task of choosing the site of the present capital? Did the writ of the public servant in remote places carry more authority, as conveying Her Majesty's business, than that of an appointee of a mere elected politician presumably born in a log cabin and weaned on cider?

The contemporary Canadian—with whatever awareness of his "two solitudes" that Hugh MacClennan reports, with his current self-consciousness of power, wealth, and world destiny, with his search, guided by the Massey report, for appropriate forms of cultural expression—will find in these pages essential ingredients for his "useable past." The student of the institutions of other political societies sprung from British imperial beginnings will find much that he should study. But the value of Professor Hodgetts' work is wider. He makes clear the essential, creative work of the public servant, documenting this with frequent reference to, and some brief characterizations of, particularly interesting and important officials, most of whom are generally unrecorded, even by the general historians. In this he, like his teacher, Leonard White, contributes an important new element to the proper duty of historians. He also shows, as Carter Goodrich and others are doing in the United States, that a pioneer stage of development is by no means one of "laissez-faire," but one dependent upon public policy in lands, transport, and colonization.

This theme of national development from a frontier and extractive stage has wider and more timely application in the complexities of technical assistance (appropriately administered, it would seem, by the former Canadian civil servant, Mr. Hugh Keenleyside), Point Four, the Colombo Plan, and all the rest of the efforts to speed developments in various parts of the world. A comparison with the account of the development of the public services in the Gold Coast recently made by Dr. Amon Nikoi comes to mind as that of another community within the Commonwealth on the eve of a new status. Here again the role of the civil service is a crucial one; and the authors of future reports on such enterprises may well draw upon the relevant insights provided by Professor Hodgetts.

This is a work of honest and enthusiastic scholarship and of humane quality. It is to be hoped that Professor Hodgetts will extend his account down into the present century and continue to relate a changing environment to the evolution of the public services. Political theory and political action alike need this approach.

JOHN M. GAUS.

Harvard University.

Atomic Energy and Congress. BY MORGAN THOMAS IN COLLABORATION WITH ROBERT M. NORTHROP. (Ann Arbor: University of Michigan Press. 1956. Pp. vi, 301. $4.75.)

One can hardly imagine a more difficult goal than that of this book: the attempt to bring into focus "the structures and processes of decision-making and control which have guided the development" of atomic energy. That so much of value shines through in the final product is a tribute to the patience and perception of the authors.

The day was when some at least could laugh at Sam Goldwyn's alleged quip, "Somebody better watch that atom bomb. It's *dynamite!*" Today, the subject is humorless and grim. It is the terminal question of our epoch. Upon the wisdom and restraint of those who control the use of atomic energy may rest man's ultimate fate on this earth.

Professor Thomas, as part of the celebrated Phoenix Project at the University of Michigan, has told with remarkable clarity and insight the story of A.E.C.-Legislative Committee relationships from 1946 to 1955. The book is superb as a chronicle of the frustrations, uncertainties, fears, strategems, misunderstandings, and—thank God!—understandings, which have marked these relations. Patient research, including extensive interviewing, has resulted in a lively picture of men and institutions in travail, and a coherent picture, so far as that is possible under security restrictions.

After describing briefly the machinery of control created by the Atomic Energy Act of 1946, the book traces the various struggles which marked the first decade: Lilienthal's desire to get on with the job versus the Joint Committee's preöccupation with security; the peculiar and changing roles of the military, the scientists, and the politicians; the Joint Committee's happy honeymoon with the Commission when Gordon Dean was chairman of the latter; the return to frustration after 1953 as key atomic energy decisions were pushed up to the level of the White House and Admiral Strauss paid increasingly little attention either to the Joint Committee or to his colleagues on the A.E.C. Four short chapters deal with the relationship of the Appropriations subcommittees to the A.E.C. budget, showing that the "Appropriations Committees were notably unsuccessful in their attempts to force their values upon the A.E.C." A concluding chapter called "Political Science and Atomic Energy" attempts to pull the story together and give it meaning.

Like all other books, this has its shortcomings. Some of its statements, for example, seem to be aimed at thanking friendly sources of information and, consequently, lack critical restraint (e.g., "The staff [of the Joint Committee] was expert and active; it dealt competently with all phases of the Commission's activities"; p. 113). Tenuous and extremely controversial administrative hypotheses are sometimes stated as confirmed truths (e.g., "A commission, it is generally conceded, is better suited to policy formulation [than a single administrator]"; pp. 4–5).

More important, perhaps, the book has overtones of dislike for politics, disagreements, and shifts in power away from the Committee-Commission level —three peculiarly inevitable aspects of modern democratic government. The Gordon Dean days (1950–1953), when the Joint Committee was part of the "inner control" group, are remembered almost wistfully. Disagreements and political splits within the Joint Committee are viewed as "hampering" and "weakening" the Joint Committee's influence. The egregious Admiral Strauss is pictured in all of his splendid arrogance, but the price of his coming back from the exalted role of Presidential adviser to the level of mortal commissioners and legislators is not really faced. The Joint Committee is defended as a device for maintaining checks on an agency when secrecy is involved in the agency's operations; but the clearest lesson of the book (and of the 1956 election debate) is that atomic energy is no longer at the periphery of politics, but at its center—and can not and should not be shrouded in secrecy or handled by a few of the boys in the back room. Does this development do away, then, with the Joint Committee's *raison d'être?*

But it is simple enough for a reviewer to raise these questions. It is quite another thing to answer them. These quibbles and questions are not meant to detract from the real worth of the book. The description of the late Senator McMahon lobbying the top echelons of the executive branch, and the sketch of the Joint Committee running interference for the A.E.C. in some of its annual tussles with the House Appropriations Committee, alone would justify the book's publication.

STEPHEN K. BAILEY.

Princeton University.

New York Establishes a State University: A Case Study in the Processes of Policy Formation. BY OLIVER CROMWELL CARMICHAEL, JR. (Nashville: Vanderbilt University Press. 1955. Pp. xiii, 414. $5.75.)

New York State now has an interesting dichotomy in its public higher education. Dual rather than single control emerged from a political struggle of particular significance for all state-supported education. The University of the State of New York, the trustees of which are the Board of Regents (elected by the legislature) and the administrator of which is the Commissioner of Education, sets standards for all collegiate, professional, and graduate education (and the public schools). It dates back to 1874. The State University of New York, not yet a decade old, with its own board of trustees appointed by the governor, now administers all public higher education. About thirty liberal-arts and teachers colleges, specialized professional schools, and post-high-schools (two-year institutes) compose its domain, scattered from Long Island to Western New York. All these institutions were, until 1947, administered by the Board of Regents.

How this significant change in the control and administration of public higher education came about between 1946 and 1948 is skillfully and objectively told by Dr. Carmichael. Perhaps the most insistent pressure for a new administrative arrangement came from various minority groups. Several felt, or charged, that there was discrimination against them in existing private institutions, especially as to medical education. The Regents were slow to take active steps even to investigate, certainly to correct, alleged abuses. A double-barrelled attack—to create increased state-supported facilities and to enact "fair education practices" legislation—emerged during and after the war. These groups possessed great political leverage in both parties. Governor Dewey seized the initiative and recommended the creation of a temporary state commission to examine the issues.

This device, not unique to New York State but frequently utilized in areas of controversial public policies, is closely analogous to the British Royal Commission. Experience in New York State indicates its high utility in joining legislative and executive with a wide range of pressure-group representation. Its use here well illustrates its effectiveness in achieving compromise, if not consensus, on what was a potentially explosive issue.

The thirty-one members of this commission included all these elements. The internal and cross-party divisions on the proposed legislation and the intra-organizational conflicts among educational and racial-religious groups made the presence of the legislative leaders in the commission itself the *sine qua non* of any change in the *status quo*. The commission's final report was, in the words of its chairman, Owen D. Young, a "political document and not an educational treatise." Had both majority and minority leaders not been committed by their participation in the commission's recommendations, it would have been unlikely that the creation of a separate state university could have been achieved.

The details of the commission's staffing, procedures, and factional struggles, of Governor Dewey's maneuvers, and of the subsequent legislative struggle over the proposed state university are beyond the scope of a brief review. Suffice it to say that Dr. Carmichael's account of this episode is a model of a case study. Utilizing official records, press stories, correspondence, interest-group pronouncements, and interviews with many of the most active leaders in the movement for a state university, he clarifies the pattern of tensions which arose over the issue with insight and precision. This account is not only interesting in itself but offers valuable insights into the techniques of pressure groups and into the subtler aspects of legislative-executive relations.

PHILLIPS BRADLEY.

Syracuse University.

The International Refugee Organization: A Specialized Agency of the United Nations: Its History and Work, 1946–1952. BY LOUISE W. HOLBORN. (London, New York, Toronto: Oxford University Press. 1956. Pp. xiv, 805. $7.20.)

In Dr. Holborn's words, "this work presents the history of an international organization—the International Refugee Organization—which performed a great humanitarian service following the Second World War from 1947 to 1952." Two objectives were present in writing the history: "to provide a factual account of work of the IRO for the general public, and to give enough documentary material and bibliographical references to make it a useful reference book for experts." The history is based on the Organization's records, the archival files collected and sifted by the History Unit, monographs supplied to the History Unit by IRO Missions and administrative officers, and, "as far as available," documentary materials of the national governments concerned. Dr. Holborn indicates that she has received generous assistance from many persons who were associated in important capacities with IRO as a functioning organization. The book is issued under the auspices of the Liquidation Board of the International Refugee Organization and can therefore be viewed as the "official record" of the work of the agency. A French version of the history, by

M. René Ristelhueber, was published in Paris in 1951 under the title *Au Secours des Refugiés.*

Dr. Holborn has on the whole succeeded very well in achieving her declared purposes. The history that she has written would appear to be very complete in so far as the story of the background, organization, and accomplishments of the agency is concerned. She presents a mass of well-organized factual information, supported by references to documents. In addition, she includes a large number of very useful tables, and valuable appendices containing the constitution of IRO, important agreements concluded between IRO or its Preparatory Commission and various governments, selected resolutions, lists of officers and delegates, a chronology, and a bibliography.

As might be expected in an official history, there is very little of the kind of analysis which attempts to explain and to evaluate in other than a purely organizational context. While there is a brief description of the conflict which developed, in the setting up of the Organization, between the Western and the Communist states over the basic issue of what should be done with refugees and what the role, if any, of an international organization should be, there is little suggestion of the effect which this subsequently had upon the Organization itself. M. Ristelhueber has concluded that "IRO was thus crippled at birth" and that, as a result of the unresolved conflict, "a humanitarian organization, the very purpose of which should have been enough to gain unanimity, took on a political character which was to become even more marked as streams of refugees continued to arrive from Eastern Europe" ["The International Refugee Organization," *International Conciliation,* no. 470 (April, 1951), p. 180]. Such statements as these raise questions about the effect on the Organization of national policies and conflicts, which Dr. Holborn leaves largely unanswered.

The dust cover of the book, which is more informative than most, carries this sentence: "It will be the indispensable source of information on a most important chapter in the challenging human story of the refugees, and should prove of great interest also to those concerned with the techniques of large-scale personnel administration." This claim is fully justified. Dr. Holborn is to be commended for her part in making this record available, and especially for the high standards of scholarship which she has maintained.

LELAND M. GOODRICH.

Columbia University.

Inside Africa. BY JOHN GUNTHER. (New York: Harper and Brothers. 1955. Pp. xxiii, 952. $6.00.)

Like the other "inside" books, *Inside Africa* provides its readers with a good deal of entertainment and considerable background. Gunther has not only maintained his flair for effective description, but utilizes that most useful of journalistic talents, insightful exaggeration, as well. This is probably both the greatest strength of the book and its outstanding weakness. At its best, it provides a "feel" for the African scene for those who have never been there. If it lacks the more youthful perception of some of Meeker's articles on Africa, which were short on politics and long on color, Gunther has a more experienced eye for those aspects of African life that most need mention. And insightful exaggeration is no mean achievement. There are sections dealing with almost every African territory in which the "feel" comes through, even when Gunther lays it on thick. A District Commissioner at a bush station might enjoy sentences such as: "Drums never cease beating in some parts of tropical Africa. Sometimes they drive lonely D.C.'s mildly crazy." At least something is implied about the position of a D.C. far from centers of administration amidst a people whose manners and customs are fundamentally alien to his own.

Nevertheless, the work is far from an assessment of politics and social life in Africa today. Gunther has no central problem with which to organize his materials, which might force him to press enquiry into less obvious channels. His job is to find problems as they exist in each territory. The most obvious of these is the contrast between tribal life and organization and the impact of European institutions in terms of the growth of nationalism. Nationalism becomes the theme of the book. Hence, the introduction to each territory is to the nationalist leaders, if Gunther can make contact with them, and the world of officialdom, with as much emphasis on conflict as he can find. We are taken on a tour of Africa in terms of greater or less nationalism, greater or less political participation by Africans in varying types of conciliar institutions, these being, on the whole, poorly described. Forebodings are expressed where effective African political participation is lacking; nationalism tends to be something of a *deus ex machina*, as Gunther finds either ferment or fermentation as the occasion demands.

This is not a bad approach for Gunther's purpose. But it leaves him almost entirely at the mercy of the informants with whom he can readily communicate. The basic and more localized structure of tribal association and ethnic group is more or less vaguely in the background or high-lighted by quick episodic glimpses of tribal life. Like many other Western observers, Gunther rather delights in West Coast "ju-ju" or magic and exaggerates its importance in the structure of tribal beliefs. The West African populations tend to emerge slightly caricatured: ebullient, nationalistic, and imbued with a lusty irrationalism made more compelling by spooks. The real "inside" of tribal Africa remains outside Gunther's interest or competence, as indeed it must. For example, traditional authority—how it works, its variations and meanings—is scarcely touched upon except for a few glib references to works of several anthropologists. The result is an unbalanced emphasis on officialdom or Westernized leaders.

Where officialdom was not especially cooperative, Gunther has nothing much to report. Like most other observers, therefore, he concentrates heavily on British territories. British officials are accustomed to a steady stream of visiting UN officials, pre-doctoral candidates gaining field experience, post-doctoral fellows demonstrating previous field experience, Carnegie and Ford junketeers, food-research people, and retired American businessmen rapidly running out of continents to visit; the British tend to be forbearing about this and mostly very helpful. The French are somewhat less so, particularly when politics are involved; the Belgians even less; and the Portuguese openly hostile. It is not surprising, therefore, that, at least in regard to sub-Saharan Africa, the French system, for example, which is a highly interesting and intricate experiment in colonialism, gets thoroughly inadequate treatment from Gunther. There are the usual remarks about the assimilationist colonial philosophy of the French and references to laws of citizenship and the formal structure of administration. One will certainly find nothing new here, much that is inaccurate, and, even worse, more that will lead to erroneous interpretation.

Comparisons and contrasts in political policies and structure among Belgian, Portuguese, French, and British territories are largely ignored. In French territories, the trade unions, ideological parties, and the consequences of the Napoleonic prefect system expanded into a complex colonial pattern are scarcely treated at all. France reveals herself in her territories. There is a search for order and discipline. There is heavy emphasis on the legal attributes of freedom and citizenship. Military and administrative feudalism compete with nineteenth-century liberalism, expressed not only in trades unions but cooperatives, and with bureaucratic political parties whose concern is Paris and parliament as much as the territory itself. The transposing of French politics to an alien setting?—Gunther is sadly silent on this score. What are the consequences of French universalism, of those metropolitan ideologies which are so much a part of our contemporary notions of the state and man in the Western world, when applied to African intelligentsia, to newspaper editors, nationalists, clergy, and to an African public whose literacy in French is rapidly increasing? Indeed, the fascinating consequences, particularly upon newly-trained elites, of para-military administration and the disciplined corporateness of the Catholic Church-militant, combining social liberalism and ideological conservatism, are as important in the long run as the secular conciliarism of French middle-aged socialism and its emphasis on assimilation and equalitarianism rather than elitism. French territory can provide as rich a survey of information as can be found anywhere about the role of ideas in politics, of the symbols of the West and their African expression, as well as about man's ability to adapt, to change, and to create. Yet Gunther was apparently either unable or unwilling to spend the necessary time on French materials.

Even so, Gunther does a little to redeem himself on French material, albeit in a most oblique fashion. Perhaps one of the most interesting comments about the practice of French rule is found in the section on Albert Schweitzer. Schweitzer, the man of Bach, the great healer, who is today more legend than fact, and Schweitzer, the man who is obsessed with the fear of Africans stealing from him, perhaps symbolize French attitudes fairly well. There is Schweitzer's mystique, his humanism, his rationalism, and his medical practice in the selfless tradition. There is also his view of the ignoble savage, primitive, unwashed, unlettered, and unwilling or uncooperative. There is abstract gentleness and individual authoritarianism; concern with human spirit but harshness in its application. French administration in Africa runs somewhat as Schweitzer operates his hospital: efficiently, archaically, impersonally, and yet somehow highly individualistically.

There are enough mistakes in the book to make it suspect as a whole to the specialist in any area. But it is to the general reader that it is addressed. Whatever its faults and errors, *Inside Africa* does, in the main, accomplish its purpose of acquainting the reading public with some of the more salient features of the African scene. Students with a passing interest in Africa will find it useful.

DAVID E. APTER.

Northwestern University.

La philosophie politique espagnole au xvii^e^ siècle: dans ses rapports avec l'esprit de la contre-réforme. BY JOSÉ-ANTONIO MARAVALL. TRANSLATED BY LOUIS GAZES AND PIERRE MESNARD. (Paris: Librairie Philosophique J. Vrin. 1955. Pp. 333.)

The notable study of seventeenth-century Spanish political thought by J.-A. Maravall of the University of Madrid, first published in 1944, has now been made available in a French translation.

For Spain the seventeenth century was a period of steady political and economic decline. A country which had been the first to develop representative institutions in the Middle Ages now succumbed to an absolutism which was both oppressive and incompetent. Spain's political writers, for the most part, reacted to this new reality by concentrating on the education of a virtuous and prudent monarch—a favorite occupation of moralists in nations where the type itself is rare. Didactic treatises on the subject of the perfect prince, possessed of Christian as well as political virtues, now took the place of the voluminous scholastic treatises that had dominated the political thought of the sixteenth century. The narrow, practical purpose of these works probably accounts for the fact that most, if not all, of the writers discussed by Professor Maravall have so far not been known as political theorists. Names like Baltasar Gracian, Francisco de Quevedo y Villegas, Diego Saavedra Fajardo, are familiar to those versed in Spanish literature, but hardly to students of political philosophy.

Professor Maravall correctly points out the basically conservative character of this political literature. The prince was regarded as the vicar of God, fully sovereign and *legibus solutus* as far as human law was concerned. The right of resistance to tyranny, so important in the preceding century, was now rejected as destructive of good order. The counsel of wise men, in addition to the prince's voluntary submission to the commands of natural and divine law, was relied upon to prevent abuses. To guide the ruler along the path of justice was, of course, the primary objective of these Spanish writers.

A definite weakness of an otherwise very scholarly work is the author's failure to indicate that, despite the prodigal quantity of such moral guidance, absolutism became ever more decadent and corrupt. This omission appears to be due, on one hand, to the rather abstract type of *Ideengeschichte* Professor Maravall has written. Also, and perhaps even more important, the author, betraying a certain nostalgia for the period he is analyzing, frequently slights its darker side. Thus, he regrets the "depersonalization" of modern, rationalistic political science and praises the emphasis on the personality of the ruler on the part of seventeenth-century authors, yet silently passes over the failure of Spanish enlightened despotism and the demonstrated inadequacy of natural law as an effective barrier to tyranny. The author discusses the growing recognition of the king's resort to *raison d'état* and the influence of the "scandalous theories of Machiavelli" (p. 193) during this period, but denies that the amazing subtleties of the Jesuit Rivadeneyra, for example, constitute Machiavellism. The demands for vigorous persecution and punishment of heretics made by the friars Marquez and Santa Maria, who are frequently quoted on other, less unpleasant, subjects, are never mentioned.

Despite these shortcomings, the work represents an important contribution to a generally unexplored subject. Spanish political thought may not possess all the originality and richness claimed for it by both author and translator, but it certainly deserves more attention than so far has been paid to it. Professor Maravall's book is to be welcomed as a valuable introduction to this neglected field of study.

GUENTER LEWY.

Columbia University.

BOOK NOTES AND BIBLIOGRAPHY

AMERICAN GOVERNMENT AND POLITICS

The Framing of the Fourteenth Amendment. BY JOSEPH B. JAMES. (Urbana: University of Illinois Press. 1956. Pp. vii, 220.)

Upon most, if not all, important matters of thought or action, however well investigated and discussed, there is always room for still another work. Such is certainly the case with respect to the Fourteenth Amendment to the United States Constitution. That amendment has been the subject of numerous articles, monographs and books—many of them recent. It has been intensively reviewed as to its origins, its adoption, its text, and its post-adoption history. But the complete story has not yet been told. There are avenues of investigation still open, interpretative hypotheses yet to be systematically stated and tested. A comprehensive volume collecting, integrating, and evaluating the sources, facts, and theories already produced by scholars, judges, and lawyers would be a significant contribution.

In his monograph, prepared initially as a doctoral dissertation under the guidance of Professor J. G. Randall, now published in the Illinois Studies in the Social Sciences, Joseph James undertakes to add new data and to re-write the whole story of the adoption of the fourteenth amendment. His purpose, he writes in his Preface, is for the first time "to fill at least some of the . . . needs": to examine "the movements prior to December 1865 which directly influenced the Thirty-ninth Congress in framing its joint resolution"; to utilize "the tremendous amount of available correspondence and other manuscript material"; and to "integrate the various known facts of the period as a whole with a complete narrative of the evolution of the amendment." The new evidence, the author contends, "has thrown new light on previously known facts and consequently has modified some conclusions."

In part Dr. James has been successful, in part unsuccessful, in accomplishing these entirely worth while objectives. He has culled newspapers, correspondence, and biographies of men of the period for a body of data not hitherto available. He has pulled together known facts into a narrative of the evolution of the amendment, treating all five sections, not just the first and fifth. The new body of data is not particularly significant. It is confirmatory of findings already made. It does not cast new light on, or modify important conclusions about, the nature or history of the amendment. With the advantage of hindsight on the work as completed, it can be seen that Dr. James's new evidence could have been sufficiently encompassed and more appropriately treated in an article-size presentation with attention focused on analysis of its precise bearings.

So, too, with the overall narrative. It is not comprehensively integrative. Conflicting theories, except perhaps as to the "conspiracy theory," are not evaluated; and with respect to the conspiracy theory, whole bodies of evidence now being turned up by Howard Jay Graham were not discovered [Graham, " 'Builded Better Than They Knew'," 17 *Univ. of Pittsburgh Law Rev.* 537 (1956)]. The critical social, historical, political, and constitutional problems are largely by-passed and neglected. Was section five intended as a revolution in federalism? Was it corrective only or affirmative as well? Was the due process clause substantive as well as procedural, positive as well as negative? Was the equal protection clause classificatory, substantive, negative, positive? Were the privileges and immunities of United States citizens which were forbidden to be abridged by state law subject to congressional identification and enlargement and peculiarly the possession of United States citizens, or were these privileges and immunities shared also by state citizens? The contributions of other writers upon these critical problems have not been adequately digested. Indeed, the monograph conveys the impression of a doctoral dissertation written years ago, readied for publication by the addition of a final chapter, "In Perspective," and by some further citations in the notes and bibliography, but not drastically overhauled in the light of scholarly contributions in the intervening period.—JACOBUS TENBROEK, *University of California (Berkeley).*

The Truman Administration: Its Principles and Practice. EDITED BY LOUIS W. KOENIG. (New York: New York University Press. 1956. Pp. 394. $5.50.)

Harry S. Truman and his administration will be controversial as long as words are spoken or written about them. Truman came to power in a "time of troubles" and the end is not yet. Moreover, the Truman personality was and is an invitation to controversy. People are for him or against him; few are objective or neutral or disinterested.

Although "there is every reason why there should be as yet a dearth of respectably sober and disinterested judgment," this book is a significant attempt to lay the foundations for just that. It is "a book of facts": not all the facts but many of those which must be considered when any objective definitive judgment is attempted. It is an admirable collection of primary materials for the future historian and political scientist, and the editorial comment is concise, objective, and adequate.

The treatment of the material is topical, not chronological. The five major divisions are: The Presidency; Administrative Chief; Popular Leader and Legislator; Organ of Foreign Relations; and Commander in Chief. There is also a short conclusion: "Transition from Truman to Eisenhower." Within this wide range, this volume presents "what a President of the United States said, did, tried to do." The words are chiefly the President's own and "the utterances reproduced range from campaign speeches to formal State of the Union messages, from remarks at anniversaries and dedications to the annual Economic Report to Congress." One may not enjoy Mr. Truman's style, but no one who reads this book can deny that this President spoke concisely, clearly, specifically, and to the point of the subject matter. There is a freedom from generality, innuendo, and cliché which strikes this reviewer today as both wholesome and infinitely desirable. Specific detail and frankness can perchance be overdone; yet many of us are quite convinced that the opposite can be and is worse.

Space limitations do not allow a summary and criticism of each major division of this material. However, the first section on the Presidency presents the pungent ideas and attitudes of a President unusually well versed in the history of the office, its evolution, and, of supreme importance, its power and responsibility not only in the United States but in an interdependent but tragically divided world. If the President over-reached his powers occasionally in domestic matters (as the courts and Congress sometimes found), there were the great decisions on foreign policy and military affairs which, if our civilization survives, will be remembered and cited as long as free men live.

If Mr. Truman is considered by some to have been less successful than certain predecessors as an administrator and as a domestic legislative leader, it was not because he lacked ideas or programs or failed to advocate these clearly at every opportunity. Congress, the mood of the country, and crises in foreign affairs were the stumbling blocks.

In foreign and military affairs, as I have already intimated, it is a different story. The founding of the United Nations, the Truman Doctrine, the Marshall Plan, the North Atlantic Treaty Organization, Point Four, Korea, and, last but not least, the replacement of MacArthur were decisions and actions of lasting importance.

The policy and administration of the Truman era are well documented. We owe a vote of thanks to Professor Koenig.—HOWARD J. MCMURRAY, *University of New Mexico.*

The Political Behavior of American Jews. BY LAWRENCE H. FUCHS. (Glencoe, Ill.: The Free Press. 1956. Pp. 220. $4.00).

When the Republican National Committee created a new "ethnic" division in 1956 devoted exclusively to corralling the Jewish vote, it could hardly have been motivated by optimism. According to Professor Fuchs, about 75 per cent of American Jewry remained Democratic in 1952, while the rest of the nation (except for Negroes) was switching to Eisenhower. In 1954, Senator Paul Douglas polled over 90 per cent of the vote in the most Jewish wards in Chicago and there is much other data to show that Jews have continued their Democratic loyalties since 1952. The author sees three factors working against the Republicans: the vocal right wing G.O.P. and the President's deference to it by appointing pro-McCarthy men to important administrative posts; the administration's policy toward Israel and the Arab states; and "the emergence of dozens of new Democratic leaders with a liberal bent." It may be noted that all Jewish members of Congress are Democrats except Senator Javits and that the only Jewish Governor, Abraham Ribicoff, is of the same party. This book, written over a year in advance of the 1956 election, notes Eisenhower's popularity and concedes that perhaps "many Jewish voters might turn to him as the architect of peace."

The demographic factors observed in the

many recent studies of voters' preferences appear to have little applicability to Jewish voters during the New Deal. Rich or poor, old or young, with college or grade school education, Jews were Democratic. The slight defections which did take place in 1952 were in the suburbs and in southern cities.

The reader will be surprised at a great many other facts and conclusions in this book. For several reasons it might well serve as a model for studies of the many other ethnic, religious, and nationality groups. Statistics are used sparingly but to good effect. The author has not tried to squeeze too many generalizations from his figures or to make too much of his data. There are only 17 tables in the book, most of them dealing with Jewish wards in Boston, Chicago, and New York. Fuchs does not limit himself to voting behavior since 1932 but uses the historical approach to trace political sympathies of Jews since Jefferson. While the Jews started as Jeffersonians, they gave the majority of their votes to Republican candidates from 1856 to 1912. After Wilson, except for a Socialist minority, they returned to the Republican fold as did the rest of the nation.

Jewish culture, religion, internationalism, insecurity, liberalism are shown to tie values and votes together. The analysis of these factors constitutes a major part of the book and results in giving the reader important insights into the group's vote.

The three historical chapters are understandably much less well documented than the others, and the author admits reliance upon newspapers and encyclopedias. Such statements as that in 1860 "everywhere Jews were enlisting in the new Republican party" and that "what drew Hebrews to Lincoln more than anything else was the President's vast humanitarianism" are asserted as fact. Although these assumptions are probably true, little evidence is given in support of them. Some readers will regard numerous other generalizations as too sweeping, but they will credit the author with a persuasive defense of his speculations and interpretations.—HUGH A. BONE, *University of Washington.*

Strategic Intelligence and National Decisions. BY ROGER HILSMAN. (Glencoe, Ill.: The Free Press. 1956. Pp. 187. $4.00.)

This is a sensitive examination of the fitful liaison between Washington foreign policy makers and strategic-intelligence agencies. The decision makers appear to want nothing but the facts from the intelligence people. The latter do not appear to have decision-making aspirations but are unhappy at being asked *ex post facto* to support unpremeditated brain-children born out of wedlock. The author does a job that would have pleased Morris Cohen of showing the futility of gathering and presenting facts without deliberate consideration of the value systems and relative power of different groups within the United States and the foreign country in question. This necessarily involves both introspection and hypothesizing. In view of the reported contempt of many harried and itchy policy makers for such wool gathering, the outlook for honest wedlock between such decision makers and thoughtful intelligence people does not seem bright. Perhaps this book will help.

The Federal Credit Union: Policy and Practice. BY JOHN T. CROTEAU. (New York: Harper and Brothers. 1956. Pp. vii, 210. $4.00.)

This first book-length study of Federal credit unions covers the first twenty years of their operation. These associations grew rapidly through 1941 and again after 1945. At the end of 1954, there were about 7,000 Federal credit unions with more than three and a half million members and assets in excess of $1 billion. This study is largely descriptive, relying heavily on data from the Bureau of Federal Credit Unions, HEW. Statistical tables present abundant useful information. The activities and viewpoint of Federal supervisory agencies are described. Possible changes, especially proposals for regional credit unions and share insurance, are well presented. This study contains little analysis, few comparisons with competitive financial institutions (including state-chartered credit unions), and almost no discussion of the political issues involved. An excellent bibliography is included.

The Negro Potential. BY ELI GINZBERG ASSISTED BY JAMES K. ANDERSON, DOUGLAS W. BRAY, AND ROBERT W. SMUTS. (New York: Columbia University Press. 1956. Pp. xii, 144. $3.00.)

The potential considered here is largely that of military and industrial manpower. An examination is made of the Negro's record as a soldier and his growing importance in the factory economy; and both of these concerns are related to educational opportunities (present-day and future) for the Negro. The general conclusion is that the Negro has made significant gains in the past fifteen years on both the economic and social fronts, the latter being attributed, not to marked changes in White attitudes, but to increasing industrial opportunities that spring from an expanding economy; in short, social democracy follows from economic prosperity.

Government Contracting in Atomic Energy. By Richard A. Tybout. (Ann Arbor: The University of Michigan Press. 1956. Pp. x, 226. $4.50.)

This analysis concentrates attention primarily on cost-plus-fixed-fee contracting. The justification for its use, in the author's opinion, is cost minimization for the government. The cost-reimbursement contract is an "administrative contract": i. e., it substitutes administrative for market mechanisms. It results in peculiar relationships between government and business under which the government makes policy and exercises extensive and continuous supervision but leaves operation to private industry. In the atomic energy field there is complete government ownership but private operation through contract. The author notes the allowance of private ownership under the Atomic Energy Act of 1954 and thinks the cost-plus pattern which has suited defense needs may be inappropriate for commercial development because of its tendency to foster integration rather than competition in industry.

Government Budgeting. By Jesse Burkhead. (New York: John Wiley & Sons, Inc.; London: Chapman & Hall, Ltd. 1956. Pp. ix, 498. $7.50.)

A comprehensive treatment which must be considered one of the standard modern works on the subject. Functional, line-item, program, and performance budgets are described and evaluated. Phases of the budget cycle from executive preparation through legislative enactment to execution are reviewed in succession. Under the heading "specialized budget problems," the author treats revenue estimating, budgeting and control of public enterprise, the balanced budget, and budgeting for economic development. The practice and experience of national, state, local, and some foreign governments are considered. Of interest to economists and students of public administration, this study is clear and authoritative. Selected bibliography.

American Social Legislation. By John D. Hogan and Francis A. J. Ianni. (New York: Harper and Brothers. 1956. Pp. xvi, 713. $6.50.)

Sociological in emphasis. Less weighted with economic and legal considerations than comparable works. Early sections deal with the relation of social thought, the American cultural pattern, and the political process to social legislation. Other sections cover family legislation, labor law, social assistance and social insurance. Concluding chapters discuss "planning for social goals" and "future directions."

Government and Art: Study of American Experience. By Ralph Purcell. (Washington, D. C.: Public Affairs Press. 1956. Pp. viii, 129. $2.75.)

To quote from the book's introduction: "Professor Purcell traces the continuing though fluctuating interest of American government—national, state and local—in art since the earliest days of the republic." Singled out for extended treatment is the Federal Art Project of the WPA.

The Wild Jackasses: The American Farmer in Revolt. By Dale Kramer. (New York: Hastings House. 1956. Pp. x, 260. $4.50.)

Agrarian discontent from 1867 to 1934. Grangers, Anti-Monopolists, Alliancemen, Populists, NPL, and the Farm Holiday movement. Activities of the Farm Bloc and the battle for parity are omitted. A clear narrative drawn largely from well known secondary sources although the author knew the Holiday movement at first hand. The book is written in a popular style and is intended to be dramatic. In his preface the author says, "There is a pattern in agrarian upheavals." The reader, however, is left to figure it out for himself.

Philadelphia Government, 1956. By Edwin Rothman, Edgar Rosenthal, Emma L. Bowman, and Leigh B. Hebb. (Philadelphia: Bureau of Municipal Research and Pennsylvania Economy League (Eastern Division). 1956. Pp. xii, 365. $2.50.)

A citizens' guide to the government of Philadelphia, its organization, services, and finance.

A Bibliography of Virginia. Part V, Containing the Titles of the Printed Documents of the Commonwealth, 1916–1925. By Wilmer L.

HALL. BULLETIN OF THE VIRGINIA STATE LIBRARY, VOL. 25, NOS. 1–4. (Richmond: Virginia State Library. 1955 [i.e., 1956]. Pp. 611.)

Mr. Hall's work completes the most extensive record of the official publications of any state. Part II of the *Bibliography of Virginia* by Earl G. Swem described the official publications of the Commonwealth from 1776 to 1916. Beginning with 1926 there has been an annual *Check-list of Virginia State Publications.* The main arrangement is chronological, following the pattern of Part II, but the secondary arrangement is alphabetical by agency. There is a detailed index. The utility of the work might well raise the question of the possibility of undertaking similar action for other states to help make state publications more readily accessible for use.—J.B.C.

Introduction to Government. BY ROBERT RIENOW. (New York: Alfred A. Knopf. 2nd ed., rev. 1956. Pp. xx, 584, xvi. $5.50.)

A second edition extensively revised and rewritten. Part I, theory; Part II, Britain, France, the United States, and the USSR. The third part after a discussion of "revolutions" covers a series of institutional arrangements on a topical basis: constitutionalism; rights; federalism; and separation of powers. Later sections deal with the following topics among others: public opinion; parties, elections; legislatures; administration; local government; and, finally, "global government."

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AMERICAN GOVERNMENT AND POLITICS

FRANKLIN L. BURDETTE
University of Maryland

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FOREIGN AND COMPARATIVE GOVERNMENT

The Office of Prime Minister. By Byrum E. Carter. (Princeton: Princeton University Press. 1956. Pp. 364. $5.00.)

This is a useful rather than an important book. It is descriptive rather than analytical. Thus its chief contribution—and it should not be underestimated—is that it brings together a wide range of material on the many different facets of the role of the modern British Prime Minister. Except that some of this material is not widely known, the study does not break fresh ground in any of these fields. The cumulative effect is very considerable, however, and the end result is a neatly constructed account of one of the two most powerful political offices in Western democracy (the other, of course, being that of the President of the United States).

The facts, the sources, and the channels of the power of the British Prime Minister are well presented and documented. What one would have liked, in addition, would have been a more fundamental consideration of the implications both of these means of power and of the perhaps less tangible but highly important restraints which operate within the British system. If we are startled by the degree to which so drastic an international move as the attack on Suez rested within the competence of Prime Minister Eden, we must also take into account the instant and effective ways of exerting pressure on the top British political figure (which, in comparison, may be considerably less influential on the policy of an American President). Thus the British Prime Minister's Cabinet and party, as well as Parliament and instruments of expression like the press, radio, and television, are not only sources of power which he can use, but also significant means for putting pressure upon him to modify or change his policy.

In the light of the extraordinary importance of the Prime Minister within the British parliamentary system, it is indeed surprising that a full scale work on the office has not been written long before this. Mr. Carter is to be congratulated upon having seen the need and met it to a certain degree. He has used published sources with a good deal of discrimination and followed the lead of such eminent analysts as Sir Ivor Jennings, often quoting at considerable length from them. But his book is not, and perhaps could not have been, one of those works which, resting on a profound awareness of the essential nature of the parliamentary system, break new ground by deepening our understanding not only of the way it works, but of why it works that way. Such a study is long overdue, and Mr. Carter's efforts will be doubly useful if they encourage so creative an enterprise to supplement his own sound and practical effort.—GWENDOLEN M. CARTER, *Smith College.*

Les partis communistes d'Europe, 1919–1955. BY BRANKO LAZITCH. (Paris: Les Iles d'Or. 1956. Pp. 255.)

This small volume consists of an introductory chapter in which the author develops very sketchily some of his general theses about the nature of the Communist movement and parties, a first part in which the history of Communism from the establishment of the Third International to the third meeting of the Cominform is discussed in exactly seventeen pages, a second part in which some of the most important theses of the Third International are quoted without comments, and a third part in which the author gives us a very sketchy account of the history of each Communist Party of Europe from the date of its foundation to the end of 1955. In each case a summary "who is who" of the most important communist leaders of each country is appended.

Timely as the volume is in view of the general unrest in the Communist world, it adds little to our knowledge of the European Communist Parties. The general thesis of complete stalinization of the parties and of their subservient role to the Soviet Union is hardly novel. Perhaps what is original is the effort of the author to interpret communism exclusively in political terms. He claims that economic factors, such as a depression or a low standard of living, are unrelated to the strength of communism. He points out that the strength of communism depends upon the weakness of the state in particular countries, such as France for instance; the tactics followed (Communist Parties became invariably stronger by using tactics of cooperation with other parties); the position of the Soviet Union (the stronger its position in the world the more successful the Communist movements and parties throughout the world). But these theses are developed in such a sketchy manner that they never become more than interesting speculations.—ROY MACRIDIS, *Washington University (St. Louis).*

The Beginnings of Nyasaland and North-Eastern Rhodesia: 1859–95. BY A. J. HANNA. (Oxford: The Clarendon Press. 1956. Pp. viii, 281. $5.60.)

British Central Africa has attracted considerable interest among American political scientists as a result of the recent emergence of the new state of the Federation of Rhodesia and Nyasaland. Mr. Hanna's work is to be recommended for those who desire to delve deeper than most contemporary materials on the Federation and to gain an understanding of the complex circumstances under which British authority was established in this region. It ranks among the few most important accounts of the political evolution of Central Africa. It is to be hoped that the author will regard this volume as the beginning of a series that will eventually encompass events in the early and mid-twentieth century. The value of this book does not lie in the breaking of new ground, overlooked by past historians, or the propounding of a novel thesis regarding early missionary, commercial, or diplomatic penetration. Rather, its merit centers in the competent synthesis of a wide variety of primary source materials not readily available outside the United Kingdom.

The author limits hinself to that area of the present Federation which emerged as Nyasaland and North-Eastern Rhodesia, virtually ignoring events in the remainder of Northern Rhodesia or in Southern Rhodesia. Within this frame of reference, the conflicting forces of the slave trade and the missionary movement are examined. There is an able account of early commercial penetration. Differences arising from Portuguese and British attempts to establish secular authority and administration are set forth with clarity. Combining skill in academic writing with an uncommonly judicious selection of materials, Mr. Hanna has produced a work which may be supplemented but hardly replaced.—EUGENE P. DVORIN, *Michigan State University*.

La Administración Pública en la América Látina: A Report Submitted by the Public Administration Clearing House, to the Economic and Social Council of the Organization of American States. PREPARED BY JOHN B. BLANDFORD. (Washington: Pan American Union. 1955. Pp. 87.)

Significant developments in the improvement of public administration have been taking place in Latin America in recent years, but interpretations of the needs of the area in this respect and the methods of meeting them have varied. At the same time, scholars anxious for factual information on public administration in the area as a whole and in the individual countries have not been able to find a single document which adequately describes these developments. The Blandford report satisfies this latter need, although only by way of a brief summary of the most significant trends, since its purpose was to determine Latin America's future and present needs for technical services in public administration, rather than to describe in detail the administrative problems and practices of the various countries. The resulting document is thus useful not only to the practitioners but also to students and teachers.

Mr. Blandford, war-time administrator of the National Housing Agency and a past master at analyzing administrative problems in complicated settings, visited the twenty Latin American republics during the seven months' period from July 1954 to January 1955; he interviewed almost eight hundred individuals, including many of the countries' Presidents. He presents an extraordinarily faithful picture of the administrative reality in Latin America today. On the one hand, he notes the very widespread insistence by Latin Americans that they need and desire administrative improvements; but, on the other hand, he is not led to underestimate the difficulties in achieving the necessary reforms. His general conclusion is that there is still much to be done in improving public administration in Latin America but the present resources of the area for meeting these needs, even taking into account the technical assistance received from the United States, the United Nations, and the OAS, are inadequate. In particular, he notes a lack of formalized arrangements for the interchange of information and the sharing of administrative experiences among the Latin American countries; he proposes the creation of a Latin American Institute or Center of Public Administration to meet this and allied needs. The exact formula for the creation of this Institute he leaves for further study by the OAS, although he proposes that membership should be open both to individuals and to professional groups, with financing provided not only by the OEA and the member governments, but also by private foundations.

Blandford realistically points out, however, that, at least for the immediate future, the proposed Institute could not be expected to provide the most costly types of services, such as administrative surveys, provision of technicians, and scholarships for Latin Americans to study administrative improvements in other countries, inside or outside the area. The United Nations, OAS, and the United States should continue to offer such aid, aiming particularly at training the maximum possible number of technicians in the cooperating governments, thus reducing the need for outside aid. Blandford evaluates each of the technical assistance programs and in objective fashion shows their strong and weak points. He is to be commended for the soundness of his observations and recommendations, and should incidentally be given a vote of thanks by scholars for presenting an excellent if brief summary of public administration in Latin America today.—FÉLIX A. NIGRO, *Central America Public Administration School (San José)*.

German Exile Politics: The Social Democratic Executive Committee in the Nazi Era. By LEWIS J. EDINGER. (Berkeley and Los Angeles: University of California Press. 1956. Pp. xiii, 329. $4.25.)

Rare, indeed, are systematic analyses of those institutional by-products of the totalitarian state, the exile movements. Despite frustrations and petty jealousies amidst predominantly alien cultures, a plethora of *émigré* organizations have left their imprint on the game of power politics by attempts to arouse world public opinion, to exert pressure on sympathetic governments, and to instigate revolts in their native lands. That many such attempts were not successful is only too well illustrated by this case study of the struggle of Social Democratic exiles against the Nazi state.

The author has painstakingly compiled from archive sources and interviews in this country a comprehensive and exciting account of the intricate web of exile politics. Nurtured in Prague in 1933, the Socialist Executive Committee in Exile (Sopade) felt impelled to enlighten the German people as to the true character of the Hitler regime through an intensive, illegal publications program and to organize an anti-Nazi underground movement under its own leadership. These efforts were challenged by Communist and revolutionary Marxist groups, who failed to share its rationalist, liberal-democratic ideology, and who demanded a united effort under a reconstituted leadership. As the years in exile lengthened, the internecine *émigré* strife worsened, the Gestapo infiltrated the rival groups in Prague, contacts with the courageous but shrinking underground dried up, and funds became alarmingly scarce. When the democratic Czechoslovak government, under pressure from Germany and presumably from Great Britain, ordered the exile organizations to seek a new haven in 1937, the "generals without an army" sought refuge in France, only to be confronted by the Nazis again in 1940. Those who survived emigrated principally to Great Britain and the United States. Some of them returned to Germany in the post-war era to assist in the rebuilding of the Social Democratic Party.

At the conclusion of this essentially tragic account, the author ably assesses the significant causes of their failure. The Socialists underestimated the massive power of the Nazis and overestimated the chances for a revolution; they were fighting, not a foreign invader, but a native government supported by the majority of the German people; they failed to receive adequate aid from democratic governments and other socialist parties; they were rent by factional and doctrinal disputes.

Should one conclude, as the author does, that efforts to organize a revolution from abroad were not worth the sacrifice they entailed? Or, to put the question into a current context, should the numerous Russian and East European *émigré* groups continue their activities, and, if so, in what form and for what purposes? Mr. Edinger refrains from raising this question, but his book presents a challenge to the reader who may ponder ways and means of combating a totalitarian state most effectively.—GERARD BRAUNTHAL, *University of Massachusetts.*

Gestapo: Instrument of Tyranny. By EDWARD CRANKSHAW. (New York: The Viking Press. 1956. Pp. 275. $3.75.)

This book describes the stereotypically un-German administrative chaos of the Nazi agencies whose function it was to maim, torture, and kill. The disorganization did not prevent the function being effectively performed despite obstacles that would have discouraged less dedicated men. To those unmindful or forgetful of the fruit of governmental criminality, the book is a tragic reminder. For those concerned with analysis of why the policy of destruction was established and why some human beings could set themselves heart and soul to the task, there is a substantial body of literature on which the author has rather superficially drawn and which offers better understanding.

Tito's Yugoslavia. By ERIC L. PRIDONOFF. (Washington: Public Affairs Press. 1956. Pp. vii, 243. $3.75.)

La Yougoslavie Socialiste. By C. BROBOWSKI. (Paris: Librairie Armand Colin. 1956. Pp. 237.)

Written by a businessman and former State Department official, the Pridonoff book contends that Tito has never had any fundamental differences with communism. It stresses the repressive aspects of the Yugoslavian regime and holds out little hope for its transformation into a reliable ally of the West or even a genuine neutral. Tito is seen as a communistic schismatic rather than a true heretic. The book, which is sharply critical of American and British policies in this area during the wartime and postwar periods, is a bit of personal journalism, not a convincing piece of scholarship.

The Bobrowski volume presents a more objective and balanced appraisal of Yugoslavia under Tito. Forswearing the temptation to analyze this national experience from the viewpoint of a specific ideology or a devil theory of history, the author assesses the interaction of the historical, political, economic, social, diplomatic, and personal forces that have shaped the aims of the regime and the policies established to realize them. He finds things to praise, things to criticize, and things just to note. Much of the book is devoted to economic problems, especially the balancing of urban and rural needs, and there is some ecological analysis. Highly documented with statistical charts.

Richard Jebb and the Problem of Empire. By J. D. B. Miller. (London: The Athlone Press; New York: John De Graff, Inc. 1956. Pp. 48. $1.00.)

This short monograph is a study of the influence of the writings and personality of Richard Jebb on the controversies which centered around the relation of England to its possessions overseas. Rejecting the idea of Imperial Federation as a proper solution to the problems of empire because it neglected what he called "colonial nationalism," Jebb called for a unity of empire which would give enough "autonomy to the self-governing colonies to allow them to cultivate their self respect." The author has done a service to the students of British affairs in focusing on this controversial and, in many ways, original thinker on British imperial problems.

Leyes Politicas De Espana. By Instituto De Estudio Politicos. (Madrid: Graficas Gonzalez. 1956. Pp. 619. 50 Pesetas.)

Here in one compact little volume are the texts of the political laws of Spain. The book is divided into sections each of which deals with one kind of law: Fundamental Laws (e.g., Law of Succession of Chief of State), Civil Rights and Guarantees, Government and Local Administration, the Judicial power, etc. Electoral legislation appears in a separate appendix. There are no commentaries and only a brief index.

Finland:Between East and West. By Anatole G. Mazour. (Princeton: Van Nostrand. 1956. Pp. 298. $6.50.)

A readable account of the peculiar difficulties of a small power caught between the conflicting ambitions of its larger neighbors. There is an emphasis on Finnish-Soviet relations, especially since 1939, with attention to economic relations as well as political.

Sweden: The Welfare State. By Wilfrid Fleisher. (New York: The John Day Company. 1956. Pp. 253. $4.00.)

A reporter's account of Sweden to-day: government regulation of business, consumers' co-operatives, trade unions, public welfare programs, and the housing problem. The author observes the tax burden and raises the issue of consumer choice. Informative although rudimentary.

A Manual of Lebanese Administration. By George Grassmuck and Kamal Salibi. (Beirut, Lebanon: Public Administration Department, American University of Beirut. 1955. Pp. x, 101. $2.00.)

"This volume is a collection of three things . . . [a] short descriptive history of administrative development . . . a short description of each major division of the present administration of Lebanon . . . a selective bibliography." It is "designed to aid the citizen, the public official, and the student of modern Lebanese government." "Manual" accurately describes the scope of the work. Carefully organized. Organization charts throughout.

Alcide de Gasperi: Discorsi politici. A Cura di Tommaso Bozza. 2 vols. (Rome: Edizione Cinque Lune. 1956.)

The chronological collection of the addresses of one who played so great a part in post-war Italian political and governmental affairs covers the period July 23, 1944, to June 27, 1954.—J.B.C.

Il Nuovo Statuto e la carriera degli impiegati civili dello Stato. Legislazione, giurisprudenza, commento. By A. Bennati and E. Di Giambattista. (Naples: Casa Ed. Dott. Eugenio Jovene. 1956. Pp. xvi, 324.)

The systematic compilation of the text of the recent reform of the legislation relating to the government service in Italy has been prepared by two members of the Corte dei Conti.—J.B.C.

Tunisia faces the future. (Tunis, Tunisia: Le Monde Economique, 1956. Pp. 206. $6.00.)

The elaborate special issue dedicated to the independence of Tunisia was published also in French as *La Tunisie devant son avenir.* On pages 171–204 is given an English text of the conventions between France and Tunisia signed at Paris on June 3, 1955, being a general convention with special conventions on the status of persons, on judicial matters, on administrative and technical cooperation, on cultural matters, and on economic and financial relations.—J.B.C.

Agrarian Reform in Communist China to 1952. By Human Resources Research Institute: Research Memoranda, No. 41. (Lackland Air Force Base, Texas: Air Force Personnel and Training Research Center. 1955. Pp. xviii, 61.)

Chinese Farm Economy after Agrarian Reform. By Human Resources Research Institute: Technical Research Report, No. 34. (Lackland Air Force Base, Texas. Air Force Personnel and Training Research Center. 1955. Pp. xii, 32.)

Based chiefly on official documents and newspaper reports and devised as background data for psychological warfare, these two reports represent a concentrated effort to uncover the theoretical and policy bases of the Communist agricultural program, the methods by which the regime has attempted to sell the program to farmers, and the reactions of Chinese farmers to the program and to government and party salesmanship. A highly useful short summary of agrarian reform down to 1953.

The Viet-Minh Regime: Government and Administration in the Democratic Republic of Viet-Nam. By Bernard B. Fall. (New York: Institute of Pacific Relations. 1956. Pp. xi, 196. $2.50.)

A revised version of a descriptive and analytical work that first appeared in 1954, on the Vietminh government. This edition not only considers the impact of Dien Bien Phu, the Geneva cease-fire, and the ending of French authority in Indochina, but also includes useful appendices of documents.

Jahrbuch der Deutschen Demokratischen Republik. Herausgegeben vom Deutschen Institut für Zeitgeschichte, Berlin, in Verbindung mit dem Verlag Die Wirtschaft. (Berlin: Verlag Die Wirtschaft. 1956. Pp. 600.)

The first official comprehensive reference book for the German Democratic Republic contains, among other things, a statement on foreign relations, with the texts of treaties and the most extensive listing available of the official agencies and institutions of that government. Previously information as to the official agencies and institutions has been most difficult to locate. There is a useful chronology of Germany, 1945–1954, extending to some fifty pages.—J.B.C.

Your Local Government: A Sketch of the Municipal System in Canada. By Donald C. Rowat. (Toronto: The Macmillan Company of Canada Limited. 1955. Pp. x, 148. $3.25.)

An overview of city government in Canada. Written as a citizens' guide, it does more than merely classify and identify; it raises and gives attention to such issues as municipal planning, welfare services, and centralization.

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INTERNATIONAL LAW AND RELATIONS

Non-Intervention: The Law and Its Import in the Americas. By Ann Van Wynen Thomas and A. J. Thomas, Jr. (Dallas: Southern Methodist University Press. 1956. Pp. XVI, 476. $8.00)

This is a welcome book. It has been thirty-five years since E. C. Stowell wrote the last exhaustive study on intervention. Recent developments in international law and relations, such as increased penetration by propaganda and the role of regional organizations in maintaining peace, make the work of Professors Thomas and Thomas most timely.

The Thomases attempt a systematic examination of their subject. The first part of their work presents an excellent historical *résumé* of the development of the American doctrine of non-intervention. The second part deals with the legal principle of non-intervention. Here they offer the definition that "intervention occurs when a state or a group of states interferes, in order to impose its will, in the internal or external affairs of another state, sovereign and independent, with which peaceful relations exist and without its consent, for the purpose of maintaining or altering the condition of things" (p. 71). This definition obviously is intended to be broader than those which limit intervention to dictatorial interference or threat or use of force.

The third part is concerned with types of intervention and here, in spite of the sub-title, the authors have roamed the world and amassed a wealth of illustrative materials on their subject.

The Thomases have made a careful attempt at precision and consistency. They raise many issues involving interpretation of treaties and then dispose of them in a strictly legalistic manner. Unfortunately, however, intervention as a legal term does not get completely clarified. The distinction between intervention and interference is never sharp (cf. pp. 71 and 73) and at times the authors appear to use the terms interchangeably (pp. 96, 224).

Political scientists, and many lawyers too, are apt to feel that there has been a neglect of the political realities which color even international law. For example, the authors fail even to mention that President Roosevelt in 1938 categorically asserted that, in spite of the American principle of non-intervention, the United States would not "stand idly by" and see Fascism develop in Mexico. A similar absence occurs when, in the discussion of the attack on Guatemala in 1954 (pp. 161–168), no attention is paid to the charge that U. S. Ambassador Peurifoy intervened against the Arbenz Government. Nevertheless, the profuse illustrations throughout the whole book offer evidence that the practice of states (a basis of international law) has been to interfere rather freely when states' interests were believed to be involved. If so, this political reality ought to be reflected in a discussion of the "law" of intervention.

Part of the reason for this lacuna apparently stems from the moralistic (they prefer the word axiological) approach which the Thomases take on international law matters. They divide the world into two camps—one which abides by international law, and the other one (totalitarian states) which is to be "likened to an outlaw" (p. 283). Hence, apparently, interventions against communists are to be winked at, if not actually legally justified.

They assert, in fact, that the two camps cannot co-exist (p. 358) and maintain that by their axiological approach there ought to be a right of intervention for democracy. They reluctantly admit, however, that this is not a present rule of international law (p. 362). (On the other hand, this may explain why they give little or no attention to the containment policy, air encirclement of Russia, conditions attached to economic aid, or mutual defense pacts, all of which may contain elements of intervention.)

Whether one accepts the moralistic approach or not, this work is a valuable source book for the student of international relations, although a summary and conclusion would have been helpful. There is a thorough index and a useful appendix.—Claude S. Phillips Jr., *University of Michigan.*

Technical Assistance by Religious Agencies in Latin America. By James G. Maddox. (Chicago: The University of Chicago Press. 1956. Pp. xi, 139. $3.50)

In 1953 the National Planning Association received a substantial grant from the Ford Foundation to finance a far-reaching study of technical co-operation programs in Latin America. It was hoped that an intensive study of programs sponsored by public agencies and private groups would furnish important practical guides for technical co-operation generally, Latin America was selected as the area for intensive study of these activities, not only because they have been in operation much longer there, but also because a great diversity of programs has been developed.

It is appropriate that Dr. Maddox's study of the technical service work of United States religious groups in Latin America should be the first of a series of studies concentrating on the activities of universities, business, religious groups, and public agencies in technical co-operation. This is because the religious agencies were not only the first in the field, but have always, even to the present day, made the largest contributions to the program. In terms of manpower the activities of the religious groups are over three times as large as in the United States government technical assistance program, and about half as large when measured in terms of dollar contributions from the United States.

Apart from general church-work and evangelism, the religious agencies have placed major emphasis on education; health-work ranks second; and agricultural programs take third place. Dr. Maddox first describes in general terms the scope and nature of missionary activities in these three fields. Then he presents several detailed case studies, based on personal observation, in which farm, school, and clinic are brought closer to the reader.

This study undoubtedly will serve a useful purpose as a guide for technical co-operation programs. Although the author writes with objective restraint, he nevertheless is not sparing in valid, constructive criticism. His is an excellent exposition of the achievements and shortcomings of missionary activity in technical co-operation in Latin America.—J. Lloyd Mecham, *The University of Texas.*

The Anti-Stalin Campaign and International Communism. Edited by the Russian Institute, Columbia University. (N. Y.: Columbia University Press, 1956. Pp. vii, 338. $1.75.)

Since this volume of readings "concerns a limited subject and a limited period of time: the response of the Communist parties in the major Western states to the secret Khrushchev report of February 24–25, 1956, in the weeks since its publication, on June 4, by the U. S. Department of State" (p. v), its scope is much narrower than the title implies. Khrushchev's indictment is the first selection, followed by seventeen other reprints, largely from the Communist press in the United States, Britain, France, and Italy. These items appear in chronological order, beginning with June 6 and arbitrarily stopping with July 14, apparently in the interests of quick publication.

Though the collection is useful as far as it goes, both the coverage and the timing leave much to be desired. (1) The book's appearance, less than six weeks after Khrushchev's arraignment of Stalin was publicized, was premature, particularly since many parties abroad were scheduled to call congresses later in 1956 or early in 1957. (2) The impression is conveyed that anti-Stalinism stirred up a greater furor among the Western Communists than among those in the East European satellites or Yugoslavia, which is true at most only of immediate *verbal* reactions. Specific repercussions in Poland and Hungary could not be foreseen, but there were discernible general trends under way in Eastern Europe in response to de-Stalinization for some weeks before publication. The omission of extreme, anti-Stalin comments in the Polish press and statements by Tito urging the Kremlin to push de-Stalinization to even greater lengths is not defensible. (3) Except for a few sentences in the Foreword, there is no attempt to trace anti-Stalinist developments which culminated in Khrushchev's pointed condemnation. Also ignored is the matter of anti-Stalinism at the regular, eleven-day sessions of the Twentieth CPSU Congress, during which the Soviet oligarchy unanimously castigated Stalin by inference, innuendo, and ideological revision. Hence the comrades abroad were not so "surprised" by Khrushchev's temporarily "confidential" speech as the Russian Institute's collection suggests. (4) There is no interpretation of anti-Stalinism, either in an original concluding chapter, in editorial comment in footnotes, or in the brief connective passages between the textual items. Anti-Stalinism is a phenomenon of major importance, not only because some features of it aroused unprecedented opposition by the Western comrades, but also because it unleashed latent forces of nationalism and economic discontent in Eastern Europe and because it is interlaced with calculated policies of relaxation and restraint which broke down in the case of Hungary only when the "national" Communists there tried to go "too far." Thus the volume is superficial and susceptible to rapid obsolescence.—Charles D. Kenney, *Michigan State University.*

Yearbook of the International Socialist Labour Movement, 1956–1957. Edited by Julius Braunthal. (London: Lincolns-Praeger Yearbook Publishing Company, Ltd. Pp. 529. 63 s.)

This Yearbook, issued under the patronage of the Asian Socialist Conference and Socialist International, edited with an introduction by the post-war Secretary of the International, presents an extensive picture of a group which offers a "middle way" between capitalism and Communism.

The first part of the volume deals with international Socialist organizations, including the Socialist International and Asian Socialist Conference, as well as the International Council of Social Democratic Women, the Socialist Union of Central-Eastern Europe, the International Union of Socialist Youth, and the International Union of Social Democratic Teachers. The organizations' histories, affiliated groups, membership, and important documents are reproduced.

The second section is devoted to the national Socialist and Labor parties affiliated with either the Socialist International or the Asian Socialist Conference. The list of Socialist parties is impressive. It is clear that the democratic Socialist movement is no longer confined to Europe. The Asian parties include those of India, Pakistan, Burma, Indonesia, Vietnam, Japan, Israel, Lebanon, and Malaya. In our own hemisphere are parties from Argentina, Uruguay, Jamaica, Canada, and the U.S.A.

This Yearbook is a valuable reference work. There is a short history of each party and valuable information on membership, voting strength, and the various parties' participation in their nations' governments. The most important documents in each party's history also appear. This is a store house of information on a worldwide movement which continues to play a key role in the struggle for democracy and social progress.—Robert J. Alexander, *Rutgers University.*

The Moffat Papers: Selections from the Diplomatic Journals of Jay Pierrepont Moffat, 1919–1943. Edited by Nancy Harvison Hooker. (Cambridge, Mass.: Harvard University Press. 1956. Pp. 408. $7.50.)

These carefully edited papers of a distinguished career diplomat will be an important source for students of American foreign policy. The first chapter, describing events in Poland between 1919 and 1921, is the only completed part of Moffat's memoir fragments; the rest of the book consists of excerpts from his meticulously kept, voluminous diaries covering the period between 1931 and 1943 which he spent in leading positions in the Department of State (Chief of Division of West European Affairs, 1932–1935; Chief of Division of European Affairs, 1937–1939); as Consul General in Sydney (1935–1937); and as Minister to Canada (1939–1943). Most interesting are Moffat's reports and views of events leading up to the War; of his journey to Europe in 1940 as Sumner Welles's chief assistant; and of Allied diplomatic relations during the War.

The book contains a Foreword by Sumner Welles.

The Crisis in World Population: A Sociological Examination with Special Reference to the Underdeveloped Areas. By J. O. Hertzler. (Lincoln: University of Nebraska Press. 1956. Pp. ix, 279. $5.00.)

This study by a sociologist and population expert presents a useful discussion, particularly for the general reader with an interest in international relations, of the phenomenal growth of world population. It stresses especially the underlying factors and processes involved, some of its most apparent and serious effects, the national and international problems it poses, and such proposed remedies as modernization of under-developed countries, increasing the world's food supply, migration, and birth control. There are excellent bibliographies at the end of each chapter. The author regards his book as a companion volume to the publication by the U. N. Population Commission, *The Determinants and Consequences of Population Trends* (1953).

Soviet Air Power. By Richard E. Stockwell. (New York: Pageant Press, Inc. 1956. Pp. xii, 238. $7.50.)

In this period of international conflict, sobering books such as this one are most welcome. Concerned by the lack of information about Soviet Air strength at the outbreak of the Korean war, the author has since that time collected the information which forms the substance of his book from a variety of sources. Besides informative chapters on Russian aircraft production, guided missile research, aviation personnel training, a concluding chapter gives the author's conception of the course which the West must take in meeting the challenge of Soviet air might. A supplement to the text carries two appendices: one dealing with the aircraft currently in use in the Soviet Union and the other listing data about Russian turbojets, turboprops, and rocket aircraft engines.

Prospero and Caliban: The Psychology of Colonization. By O. Mannoni. Translated by Pamela Powesland. (New York: Frederick A. Praeger. 1956. Pp. 218. $4.25.)

An original and thought-provoking attempt by a French philosopher and ethnologist, who teaches at L'École Nationale de la France d'Outre Mer in Paris, to apply certain findings of modern psychology to relationships between colonizers and natives. The study is based on the author's own experiences as a colonial administrator in Madagascar. It is introduced by Philip Mason, Director of Studies in Race Relations at the Royal Institute of International Affairs. First published in 1950 by Edition du Seuil, Paris, under the title *Psychologie de la colonisation.*

The Meaning of Yalta. By John L. Snell (Editor), Forrest C. Pogue, Charles F. Delzell, and George A. Lensen. (Baton Rouge: Louisiana State University Press. 1956. Pp. 239. $3.75.)

Four competent historians assess the major diplomatic questions considered at Yalta. The extremist view of Yalta as a treacherous sell-out to Russia is rejected, with an insistence that Yalta was in part an accurate reflection of changing power realities in 1945. A helpful bibliographic essay is included.

Private Foreign Investment: Legal and Economic Realities. By Seymour J. Rubin. (Baltimore: The Johns Hopkins Press. 1956. Pp. x, 108. $3.50).

Four lectures delivered during the spring of 1955 at the School of Advanced International Studies of The Johns Hopkins University. The author, now a law partner of James M. Landis (who contributes a brief preface), was Assistant Legal Adviser of the Department of State and Assistant Director of Mutual Security. The book is a clear legal analysis of the problems raised today by the continued existence of private foreign investments, together with a summation of what has actually happened in this field, particularly since the Second World War.

Public Control of Business: An International Approach. By Phillip C. Newman. (New York: Frederick A. Praeger, Inc. 1956. Pp. iv, ii, 500. $14.00.)

A compilation with accompanying annotations of cartel and international commodity agreements, national laws on monopolies and combinations, judicial decisions and consent decrees, and international proposals for dealing with the monopoly problem.

Human Relations in International Affairs: A Guide to Significant Interpretation and Research. By Seymour W. Beardsley and Alvin G. Edgell. (Washington, D. C.: Public Affairs Press. 1956. Published in Cooperation With the American Friends Service Committee. Pp. vi, 40. $1.00.)

The broad aim of the authors has been "to assemble publications representative of modern thought on the behavior of men in their social environment, as this environment relates to international problems." This well-annotated bibliography of 117 items reflects the trend to cross-fertilization in the social science, political science, and economic fields of thinking. It is limited to books published in English during and since World War II. Except for a few selections on Communism and Russia, area studies are not included.

General International Organization: A Source Book. By James T. Watkins, IV and J. William Robinson. (Princeton: D. Van Nostrand Company, Inc. 1956. Pp. xi, 248. $4.50.)

This handy collection of 65 well selected documents is designed as a teaching instrument for courses on International Organization. It consists of three parts: Documents of the Nineteenth Century, of the League of Nations, and of the United Nations, of which the second part occupies somewhat more space than the third. Most documents are presented in their entirety and are preceded by brief introductory notes.

An Introduction to World Politics. By W. Friedmann. (London: Macmillan and Co., Ltd.; New York: St. Martin's Press. 1956. Third ed. Pp. xvi, 454.)

In the latest edition of this text, the first three chapters, dealing with principles and theories, remain substantially unchanged. The remaining six chapters bring the story of post-war world politics up to date. The author throughout pays particular attention to the interactions between international and domestic affairs, between power and ideologies.

Italian Foreign Policy Under Mussolini. By Luigi Villari. (New York: The Devin-Adair Company. 1956. Pp. xii, 396. $6.00.)

A full-fledged apologia for Mussolini's foreign policy (and at times even for Hitler) by an elderly former Italian diplomat and writer on historical and political topics. In spite of certain scholarly pretenses this lively, semi-popular account hardly ever rises above its purpose of special pleading.

SELECTED ARTICLES AND DOCUMENTS ON
INTERNATIONAL LAW AND RELATIONS

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POLITICAL THEORY, RESEARCH, AND METHODOLOGY

Inalienability of Sovereignty in Medieval Political Thought. BY PETER N. RIESENBERG. (New York: Columbia University Press. 1956. Pp. vii, 204. $3.75.)

The medieval legal theory of inalienability, through development of the theory itself and through combination with other doctrines of the legists and canonists, became one of the ideological foundations of the modern national state. Here is an excellent study of the process and an important contribution to the history of the idea of sovereignty. The concepts of the Crown, of office and its duties, of public utility, and of status with its rights and limitations, were all combined into a theory of the state which was in large measure dependent on the canonists' notion of inalienability. This notion received its most important single expression in the decretal of Honorius III, *Intellecto.* This decretal, addressed to the king of Hungary, admonished that ruler to revoke certain alienations, despite the fact that he had sworn an oath to observe his grants, "since he is bound and in his coronation he swears to maintain the rights of his realm and the honor of the crown unblemished." One great merit of this book is the author's pursuit of *Intellecto* through the commentaries of the legists and canonists and through the treatises and political pamphlets of the thirteenth and fourteenth centuries.

This is a subject that calls for a precision in terminology and a clarity of style that are sometimes not quite achieved (*e.g.*, on p. 35 it is at least imprecise to say that Bracton explained *Quod omnes tangit* as meaning that "those whose interests were affected in any instance were to be summoned to discuss the common problem"; or again, on p. 6 we are told that "to define the essentiality of a prince's regalia is a profitless task"—indeed it may well be). But the reader will close this book grateful that it is so nearly free of jargon and clouded syntax. Style aside, there are a few points that might be questioned without undermining the main thesis of the work. Innocent III undoubtedly had in mind inalienability (p. 56) but it is by no means sure that he had "clearly in mind" any "principle of inalienability of sovereignty"; it is extravagant to refer to "the principle [of inalienability] as stated in the coronation oath" (p. 104), for the whole point of the coronation oath in this connection is that no such "principle" is actually "stated"; and the discussion on pp. 119 ff. is partially vitiated by begging the main question: *i.e.*, did contemporaries really accept the interpretation of the English coronation oath which the author uses as his premise for the following argument? This last question is a fine point and is not intended to detract from the value and interest of the new material which the author brings into his discussion of the medieval coronation oaths. Finally, it should be emphasized that, despite the queries and doubts that this sort of work will inevitably raise, Professor Riesenberg has made a valuable contribution to a growing field of studies. His book amply illustrates the complexity and importance of the legal thought of the later Middle Ages.—ROBERT S. HOYT, *University of Minnesota.*

Fairhope, 1894–1954: The Story of a Single Tax Colony. BY PAUL E. AND BLANCHE R. ALYEA. (Birmingham: University of Alabama Press. 1956. Pp. xiv, 351. $4.50.)

This carefully documented study of the "simulated single tax" experiment at Fairhope, Alabama, should interest students of social reform as well as those whose focus is on the politics of small community life. Beginning in the heyday of Georgist agitation, though viewed with indifference for years by many national leaders of the single-tax movement, the colony managed to survive and eventually to prosper despite innumerable difficulties. Almost lovingly, the authors trace out its vicissitudes and conflicts.

To conduct the experiment under state and national tax laws, indifferent or even hostile to the "single tax" principles of Henry George, the founders hit upon the idea of a landholding corporation which would assess full economic rent against its lessees and then refund most of their state and local taxes. While not pure Georgism, this arrangement, it was felt, would provide a fairly accurate approximation of "single tax" conditions. Would a community based upon such principles grow more rapidly than other comparable communities? Would "equal access to the land" be preserved? Would individual initiative be encouraged and bureaucracy discouraged? The Alyeas' conclusions cannot possibly be summarized in a few words, but on the whole they maintain that the colony succeeded in attaining most of its objectives. Thus improvements on colony land were developed much more rapidly than on non-colony land; and while the single-tax corporation owns only twenty per cent of the land, it contains over sixty per cent of the assessed valuation in the town of Fairhope. The principle that the economic rent of land belongs to the community has been preserved, although the authors are frank to point out shortcomings in implementation. While the colony began with the single tax idea as central, there were admixtures of socialism for many years. These non-Georgist features have been gradually eliminated, thus contributing to what the Alyeas call the "maturity" of the experiment.—MULFORD Q. SIBLEY, *University of Minnesota.*

The Legend of the Founding Fathers. BY WESLEY FRANK CRAVEN. (New York: New York University Press. 1956. Pp. 191. $4.50.)

This is the publication of the Stokes Phelps lectures delivered at New York University in the Spring of 1955. The purpose of these lectures, to quote Professor Craven, is to explore the history of America's habit of looking to its origins "for an explanation of its distinctive qualities and thus for an indication of what its future should hold." The approach is essentially historiographical, but the author goes beyond formal history to examine evidence presented by political leaders, patriotic orators, and clergymen. His use of the term "legend" is intended to convey nothing more than a hope of finding in each period the broad base of popular attitude and feeling. It is not his intention to square historical fact and tradition or to attempt a correction of popular views which historically may be in error. "Founding Fathers" is used not alone in the narrow sense of the signers of the Declaration of Independence or even of the framers of the Constitution, but also in the broader sense of our colonial forebears.

To the question "Why Came We Here?" legend answers, in the words of Cotton Mather, " 'we came hither because we would have our Posterity settled under the pure and full Dispensations of the Gospel; defended by Rulers that should be ourselves.' " John Adams read New England history in pretty much the same way and submitted that immigration to America was occasioned by resistance to ecclesiastical and civil tyranny. The fact that religious freedom was restricted considerably in Puritan Massachusetts Bay is not particularly relevant to the way in which the popular mind came to view the issue of the origins of religious toleration. In a similar way, through the eyes of the historian, the clergyman, and the patriotic orator, inquiry is made into other aspects of our common myths. In the shaping of the national tradition the contribution of the patriotic celebration, of the State historical society, of the organization to perpetuate the significance to history of a particular national origin group, and even of the "debunker" are all noted. The student of American intellectual history will find this volume an exceedingly useful one indeed, since it is just as important to know what the popular view of our tradition has been as it is to know the historic fact concerning the tradition.—GEORGE A. PEEK, JR., *University of Michigan.*

The Politics of Woodrow Wilson: Selections from His Speeches and Writings. EDITED, WITH AN INTRODUCTION, BY AUGUST HECKSCHER. (New York: Harper and Brothers. 1956. Pp. xxiv, 389. $5.00.)

This one-volume collection of excerpts from Wilson's speeches and writings has been admirably selected by the President of the Woodrow Wilson Foundation to give a well rounded picture of Wilson the scholar, teacher, statesman, and internationalist. The personality of the man and the qualities of his mind and character, as well as his educational and political ideas, are portrayed clearly and interestingly. A brief but very perceptive introduction by the editor adds to the distinction of the book.

A Jefferson Profile: As Revealed in His Letters. SELECTED AND ARRANGED WITH AN INTRODUCTION BY SAUL K. PADOVER. (New York: The John Day Company. 1956. Pp. xix, 359. $5.00.)

The editor has selected out of Jefferson's huge correspondence one hundred and eighty letters, arranged chronologically and covering many topics. Many of the letters are well known; some are less so. Letters on personal and family affairs are interspersed with letters on political and intellectual matters. Meant for "the general reader," the book is a handy supplement to Mr. Padover's earlier one-volume collection of Jefferson's writings.

The Functions of Social Conflict. BY LEWIS A. COSER. (Glencoe, Illinois: The Free Press, 1956. Pp. 188. $3.50.)

It is Professor Coser's thesis that the contemporary emphasis, in social and political analysis, on adjustment, order, and equilibrium has obscured the important positive functions of conflict in the life of societies. This is not a restatement of social Darwinism, but a careful attempt, based primarily on the work of Simmel, to indicate the full range of the influences of conflict. The book is not itself an analysis of the conditions under which conflict has its various results. There are illustrations, but no empirical tests of the propositions that are described. The value of the book is its cogent demonstration that students of law, of government, of society need to make a larger place for the analysis of conflict.

Great Political Thinkers: Plato to the Present. By William Ebenstein. (New York: Rinehart and Company. 2nd ed. 1956. Pp. xx, 940. $7.50.)

This second edition of a book published in 1951 contains the material included in the first edition plus an additional chapter on "The Welfare State," which contains excerpts from F. D. Roosevelt, H. Hoover, R. Pound, and A. C. Pigou. Well selected excerpts are introduced by brief essays; there are eighty-nine pages of bibliographical notes.

American Men of Science: A Biographical Directory. Volume III. The Social & Behavioral Sciences. Edited By Jacques Cattell. (New York: R. R. Bowker Company. 1956. Pp. xiii, 762. $20.00.)

In addition to the fields of psychology, geography, and anthropology covered in earlier editions, this volume of the ninth edition of *American Men of Science* includes, for the first time, other fields of the social sciences. At a time when political scientists are increasingly aware of their relationships with scholars working in other disciplines, this comprehensive directory is particularly welcome. Many political scientists will regret the omission of the historians from this volume; but the preface promises that this gap will be filled by the third edition of the *Directory of American Scholars*, to be published soon. It should also be noted that this volume will not take the place of a new edition of the *Directory of the American Political Science Association*, since many of the younger political scientists are not included. Nevertheless, this is an invaluable reference book.

SELECTED ARTICLES AND DOCUMENTS ON
POLITICAL THEORY

CECELIA M. KENYON
Smith College

History and Criticism

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NEWS AND NOTES

NOMINATIONS

The Committee on Nominations of the American Political Science Association invites all members to suggest persons for nomination as officers of the Association. The offices to be filled are: President-Elect, three Vice Presidents, Secretary, Treasurer, and eight members of the Council. Suggestions and supporting statements may be sent to the chairman or to any member of the Committee: Alexander Heard, University of North Carolina; Royden Dangerfield, University of Illinois; G. Homer Durham, University of Utah; Malcolm Moos, Johns Hopkins University; Victoria Schuck, Mt. Holyoke College; and David B. Truman, Columbia University, chairman. In order to be considered, suggestions should be received by the Committee not later than April 15, 1957.

PROFESSIONAL CONFERENCES

The Western Political Science Association held its annual meeting at the University of California (Los Angeles) February 22–23. Among those who read papers were: Maure Goldschmidt, Reed College, "The New Conservatism—at Its Best"; John C. Livingston, Sacramento State College, "The New Liberalism—at Its Best"; William A. Robson, London School of Economics and Political Science, "Sound Strategy in Two-Level Urban Government"; Kenneth C. Tollenaar, executive secretary, Oregon Legislative Interim Committee on Local Government, "How Much Home Rule for Big Cities?"; Minos Generales, San Diego State College, "Suez—National Sovereignty and International Waterways"; George Lenczowski, University of California, Berkeley, "Arab Nationalism: Diagnosis and Prognosis"; Gilbert G. Lentz, Office of Legislative Auditor, Sacramento, "Better State Government Through Better Legislative Services"; Allan R. Richards, University of New Mexico, "Pleas, Prejudices and Practicability"; Gabriel Almond, Center for Advanced Study in the Behavioral Sciences, "Developments in Western Europe"; Fred Warner Neal, University of California, Los Angeles, "Developments in the USSR and Eastern Europe"; Phillip O. Foss, University of Oregon, "Home Rule of the Federal Range"; Grant McConnell, University of California, Berkeley, "The Multiple Use Concept in Forest Policy"; Douglas H. Mendel, Jr., University of California, Los Angeles, "Prognosis on Japan"; Thomas A. Rusch, The Asia Foundation, San Francisco, "India's Evolution Towards Democracy"; Robert Y. Fluno, Whitman College, "How Deep is the Court in Politics"; Robert A. Horn, Stanford University, "The New Attack on the Fourteenth Amendment."

The 28th annual meeting of the Southern Political Science Association was held in Gatlinburg, Tennessee, November 8–10, 1956. Panel topics included: "Woodrow Wilson—His Politics and Policies," "The Operation and Staffing of State Constitutional Conventions," "Teaching of American Government," "The Contemporary Middle East," "A Century of Two-Party Politics," "Personality, Psychology, and Politics," "The Government of Medium-Sized Cities in the South," and "The Supreme Court's Desegregation Decisions." At a luncheon meeting, Don Shoemaker, executive director of the Southern Education Reporting Service, and the *Southern School News*, addressed the association on the subject of his work. President E. E. Schattschneider of the American Political Science Association addressed a dinner meeting, speaking on the subject of a reinterpretation of the function of political parties in the American system of government and politics. He was followed by

President Carl B. Swisher of the Southern Political Science Association, who spoke on "Dred Scott One Hundred Years After." Officers elected for the following year are Marian D. Irish, Florida State University, president; Charles D. Hounshell, Emory University, vice-president; Richard H. Leach, Duke University, recording secretary. Newly elected members of the executive council are Douglas Carlisle, University of South Carolina; Preston Edsall, North Carolina State College; Avery Leiserson, Vanderbilt University.

The District of Columbia Political Science Association (DCPSA) held its sixth meeting of the year 1956 in the Lounge of the Brookings Institution on December 13th. Roger Hilsman, Chief of the Foreign Affairs Division, Legislative Reference Service, spoke on "The Place of Intelligence in Foreign Policy Planning."

Officers elected for the year 1957 are: Ward Stewart, U.S. Department of Health, Education and Welfare, president; Charles J. Zinn, Law Revision Counsel, House of Representatives, first vice-president; Vincent J. Browne, Howard University, second vice-president; Martha K. Trytten, Staff of Senator Thomas C. Hennings, Jr., secretary-treasurer. Members of the executive committee are: Charles Cerny, Georgetown University; Charles A. H. Thompson, Brookings Institution and S. McKee Rosen, International Cooperation Administration.

The Pacific Northwest Political Science Association will hold its 10th annual meeting at Lewis and Clark College, May 3–4. "The United States and Canada" has been selected as the general topic for the meeting. There will be four round tables: "Harmonies and Strains in United States-Canadian Relations," Geoffrey O. B. Davies, University of British Columbia, chairman; "Problems of Federal-State (Provincial) Relations in the United States and Canada," Charles McKinley, Reed College, chairman; "Party Politics and Pressure Groups on Both Sides of the Border," H. B. Mayo, University of Alberta, chairman; "The Management of Atomic Energy in Canada and the United States," Thomas Payne, Montana State University, chairman. The speakers at the two dinner meetings will be Thomas I. Cook, Johns Hopkins University, whose topic is "Conservatism and Democracy—the United States and Canada," and John J. Deutsch, University of British Columbia, whose topic is "Canadian and American Economic Development—Contrasts and Similarities." The presidential address will be given by John M. Swarthout, Oregon State College.

The Midwest Conference of Political Scientists will hold its annual meeting in Springfield, Illinois, on May 2–4, 1957. The Illinois Legislative Council and the University of Illinois are co-hosts for the meeting. Featured speakers will include Quincy Wright and E. E. Schattschneider. Inquiries concerning the schedule, program, housing, or other arrangements may be addressed to the office of the secretary-treasurer at Drake University, Des Moines, Iowa.

The first International Congress of Comparative law, held by the International Association of Legal Science in Barcelona, September 10–17, 1956, brought together about 200 delegates from 36 countries. Comparative administrative law was the theme of one of the four round-tables. The subject of discussion was a working paper on the right to a hearing in administrative law, prepared by F. Harry Lawson of Brasenose College, Oxford, England, under the title, "The Doctrine of 'Audi Alterem Partem'." This paper was itself the product of a preliminary small conference held at Oxford in 1955, in which Louis Jaffe of the Harvard Law School and John Hazard of Columbia University took part. About 30 specialists in administrative law from 16 countries participated in four sessions of this round-table, including representatives from USSR and Poland, Egypt, Turkey, as well as Anglo-American and Western European universities and governmental services.

With all the diversities of background, the group was unanimous in support of the principle that the individual subject to administrative sanction was entitled to be heard. The temper of the group was to reject all exceptions. Participants subjected each other to constant shock and surprise by presenting widely divergent procedures as the obviously fair method. An oral hearing seems to be unthinkable in the European practice; the citizen is satisfied that justice has been afforded him if his attorney may file a written statement at an appropriate stage. Again, it appeared that the recourse of the disgruntled citizen was to the court in the U.S.A., to the "question in the House" in Britain, and to the Communist Party in Poland. Some attention was given to the hearing as an educative step in the engineering of social consent, as well as a legal right. Professor

Lawson undertook to revise his report in the light of the discussion. The members of the round-table urged that other aspects of comparative administrative law appear on the agenda of future Congresses. The participants from the U.S.A. included Henry deVries of Columbia University, H. C. Merillat of the Ford Foundation, George Nebolsine, Esq., Stefan Riesenfeld of the University of California, and Charles S. Ascher of the Institute of Public Administration, who served as vice-chairman.

The International Political Science Association held a round table at La-Tour-de-Peilz, Switzerland, September 10–15, 1956. Under the general chairmanship of IPSA's president, James K. Pollock of the University of Michigan, 35 political scientists from 13 countries met at the Hotel Rive-Reine on Lac Leman. One day was devoted to methodology, with discussion based upon a paper by David Easton of the University of Chicago and upon a responding commentary by M. Pierre Duclos of Paris. A second day was given to probing the idea of peaceful co-existence, the initial paper being presented by R. A. Reynolds, University College of Aberystwyth, Wales; and supplementary papers by Jovan Djordjevic, Institute of Political Science, Belgrade; Maurice Duverger, the Faculty of Law, Paris; and O. H. von der Gablentz of the Deutsche Hochschule für Politik, Berlin.

During the remaining four days, the round-table examined the political role of the farm or peasant sector in national communities as a problem of comparative political science. Discussion began on an outline prepared by the rapporteur, Charles M. Hardin, University of Chicago; and papers were provided by Feliciano Benvenuti of Catholic University, Milan; E. H. Banfield and Herbert Storing of the University of Chicago; and by Professor Djordjevic as well as by Messrs. Amitei Etzioni of Hebrew University, Jerusalem; Joseph R. Motheral of the United States Department of Agriculture; and Peter Self of the London School of Economics and Political Science.

Separate sessions developed the following topics: the influence of farm politics upon the nature of the regime; the emergence of farm organizations and the general representation of farm groups; the political consequences of public economic regulation and promotion of agriculture; voting behavior of farmers and peasants as well as their orientation to partisan politics; and the political aspects of land tenure.

Vigorous debate was sustained throughout the week. If few firm conclusions were reached, the consensus was that the basis has been provided for more effective research upon some of the pressing political problems of this generation. Socially the most memorable event was a Diner aux Chandelles at Chillon, given the round-table by the Council of State of the Canton of Vaud.

Controversy has existed among teachers of international relations as to what the content and method of instruction should be. The "realists" have wished to stress the actual behavior of states and to analyze the effectiveness of means to achieve traditional national objectives, thus emphasizing international politics and diplomatic history; while the "idealists" have felt it important to know how states ought to behave in order to realize such usually accepted values as peace, justice and progress. They have, therefore, emphasized international law and international organization.

The process of synthesising the two points of view was disclosed in a conference of a dozen of the most eminent international lawyers which met under the auspices of the Carnegie Endowment for International Peace at Geneva on August 13 to 15, 1956, to discuss the teaching of international law. Professors from the United States, GreatBritain, France, The Netherlands, Belgium and Switzerland were present.

The agenda prepared by Charles de Vischer of Belgium, formerly a judge on the International Court of Justice, dealt with such prosaic questions as whether international law teaching should be oriented toward professional or general objectives; whether law students and non-law students should be given different courses; whether the international law course should be compulsory or voluntary; whether the course should be given early or late in the curriculum; whether it should deal exclusively with law or should include materials from the realms of politics, economics, and organization; whether the lecture or seminar method was preferable; and whether the general course should utilize the expository or the case method. The conclusions dealt with many of these subjects but with appreciation that the conditions, the traditions and the resources of each institution would require considerable variation.

The group was unanimous in recognizing that political leaders as well as practicing lawyers and diplomats should know more about international law and that international law could not be treated as a formal discipline remote from the changing conditions of the world. After denouncing both the "dogmatic" approach from a "system of norms" elaborated by the professor, and the "reaction" after World War II, which conceived international law as "merely the hypocritical veneer of a purely anachronistic social state," the group, without minimizing its conviction of the importance of a wide understanding of established legal norms, insisted that the student must also be aware of the "multiple, political, economic, and psychological facts" which are "basic to the formation, the interpretation, or the disappearance" of those norms. At the same time, the group believed that the normative character of international law should not be distorted by confusing it with sociology or political science. The group evidently accepted the view, perhaps, heretofore, more prominent in the United States than in Europe, that norms and the conditions in which they function cannot be wholly separated. "The art of the teacher will lie in his ability to combine the amount of legal and extra-legal material offered in his courses in such a way as to preserve the coherence and the original characteristics of law."

The detailed conclusions of the conference are available and will be useful to teachers. The significance of the conference, however, lay in the clarification which these leading international lawyers from many countries gave to the role of international law in college and legal education, and to the need of relating that study to the other international disciplines.—QUINCY WRIGHT

The International Union of Local Authorities will hold its Thirteenth Congress at The Hague, June 12–18, 1957. The main theme for discussion is "Problems of Expanding Cities, Viewed Generally and in Relation to Rural Areas." A substantial report will be presented to the Congress, based upon information on metropolitan problems from over 25 constituent national municipal leagues. The other subject of discussion is "Traffic." The Twelfth Congress in Rome in 1955 attracted about 1,000 officials and experts in municipal problems from over 30 countries. Further information about participation from the U. S. may be obtained from Mr. Orin Nolting, Secretary, U. S. Committee for International Municipal Cooperation, 1313 East 60 Street, Chicago 37, Illinois.

The International Federation for Housing and Town Planning will hold a meeting of its Council in West Berlin during the week of August 25, 1957. The theme of the discussion is "Urban Land Policy: Condemnation, Land Assembly, Replotting for Urban Redevelopment and for Large Housing Projects." The meeting will take place during an International Exposition for Housing and Planning revolving around the demonstration rebuilding of the Hansa district near the Tiergarten in Berlin. Details of participation from the U. S. may be obtained from Mr. Charles S. Ascher, Secretary, International Committee of NAHRO, 684 Park Avenue, New York 21, New York.

The International Institute of Administrative Sciences will hold a round-table June 19–25, 1957, at Opatija, Yugoslavia, the seaside resort once known as Abbazia, near Trieste and Fiume. The themes for discussion are: "Delegation of Authority and Decentralization of Operations," "Automation in the Public Service," and "Promotion and Compensation of Higher Civil Servants." There will be also be program-planning meetings of the standing committees of the Institute. Members of the Institute are welcome. Detailed information may be obtained from Mr. Robert J. M. Matteson, Secretary of the International Section of the American Society for Public Administration, 6042 Kimbark Avenue, Chicago 37, Illinois. Members of this section are automatically members of the Institute.

OTHER ACTIVITIES

The California Conference on State Government was held at Stanford, September 13–16, 1956. Members of the Conference Advisory Committee were: Pierce H. Fazel, California Department of Finance; Richard Graves, Community Facilities Corporation; Robert C. Kirkwood, California State Controller; Edward D. Landels, Attorney; Grant McConnell, University of California; Dean E. McHenry, University of California at Los Angeles; Elton K. McQuery, Council of State Governments; Templeton Peck, San Francisco Chronicle; A. Alan Post, Legislative Auditor; John A. Vieg, Pomona College; Caspar W. Weinberger, Member of the California Assembly.

This conference was sponsored in cooperation with the American Assembly of Columbia University. The proceedings of the conference have been published in a volume entitled, "California State Government: Its Tasks and Organization."

At the American University, the department of government, and public administration celebrated the tenth anniversary of the Washington Semester Program with a two-day conference during which policy meetings were held and students engaged themselves in evaluation sessions concerning the Washington Semester experience with home representatives present. The director of the program is professor Catheryn Seckler-Hudson chairman, department of government and public administration.

Texas Southern University invites scholars, and interested persons to use the Heartman Negro Collection. This collection is of enormous historical and educational value to interested persons seeking information on the background and development of Negro people, their contributions to world progress, and their impact on world culture. The collection consists of books, pamphlets, periodicals, maps, broadsides, documents, almanacs, lithographs, oil paintings, musical scores, clippings, cartoons, and various curios, dating from 1600 to 1955. The literature of this collection is not only devoted to the Negro in the United States, but contains information dealing with the background and development of Negro people in every section of the globe, where they have lived in any concentrated numbers. At present, emphasis is placed on the historical, rather than the contemporary aspect of the Negro's contribution to world progress, and his impact on world culture. In the future, more importance will be placed on contemporary aspects of Negro culture.

A mimeographed catalogue of the collection is being processed, and all interested parties are urged to send requests for one or more copies to: University Librarian, Texas Southern University, Houston 4, Texas.

At the University of California, Berkeley, the department of political science has been awarded a block grant amounting to $200,000 by the Rockefeller Foundation. This grant came into operation in Janaury, 1957, and will cover a period of five years. Its purpose is to foster creative research in political theory and the theoretical bases of international relations. Under the provisions of the grant, funds will be allocated, through machinery instituted in the university, to individual members of the department whose teaching loads will be reduced and who will receive the opportunity for field work in the United States and abroad.

Winners for 1956 in the annual competition for works on international organization were announced at the European Centre of the Carnegie Endowment. The manuscript section award and publication of the winning entry by the Carnegie Endowment went to Mr. Mohammed Bedjaoui (France) for his study: "Fonction Publique Internationale et Influences Nationales." In this section, no honorable mention has been awarded. An honorable mention in the book section went to Mr. Romain Yakemtchouk for his work entitled "L'O.N.U., la Securite Regionale et le Probleme du Regionalisme." No first prize in this section has been awarded. The winning entry for the 1955 contest in the manuscript section "Economic Co-operation in Europe," by David Wightman, has just been published.

The Russell Sage Foundation has made a grant to Wallace S. Sayre, of Columbia University, and Herbert Kaufman, of Yale University, to prepare a volume on the government and politics of New York City. Currently assisting them in the research are Theodore Diamond (Columbia Law School), Janet Cutting Feldman (Columbia University), Pearl Handshuh Hack (Brooklyn College), Theodore J. Lowi (Yale University), Murray Silberman (Brooklyn College), and Joseph K. Roberts, Jr. (Barnard College).

John Clarke Adams has completed a three-year tour of duty as professor of public administration and director of the in-service training program in public administration at the American University of Beirut, Lebanon, and is now in Italy with a Fulbright lectureship.

Charles A. Adrian, assistant professor of political science at Michigan State University, is continuing his leave as administrative assistant to the governor of Michigan during the 1957 legislative session.

Christian Bay, Norwegian political scientist, has been appointed visiting lecturer in political science at Michigan State University for the winter and spring terms.

Guthrie S. Birkhead has returned from a year's assignment at the Institute of Public Administration for Turkey and the Middle East to his position as associate professor at the Maxwell School, Syracuse University.

Donald C. Blaisdell, chairman of the department of government at City College, will give a course in the school of international affairs at Columbia University during the spring session.

C. Paul Bradley, of the Flint College of the University of Michigan, has been awarded a Horace H. Rackham grant.

Donald W. Brandon, formerly instructor in political science at the University of San Francisco, is now in West Germany with the U. S. Information Service following a tour of duty in Washington.

Burton R. Brazil of San Jose State College was recently elected mayor of the newly incorporated city of Saratoga, California.

William H. Brubeck will spend the spring session at Columbia College as visiting assistant professor.

Eugene P. Chase, head of the department of government and law and professor of civil rights in Lafayette College, served as lecturer in the summer course in Nice under the direction of the University of Aix-Marseille and the French Fulbright Commission in July and August, 1956.

With the support of the Carnegie Corporation of New York, Harlan Cleveland, Dean of the Maxwell School of Citizenship and Public Affairs, is directing a two-year research study at Syracuse University concerned with the education and training of Americans for public service overseas. Chief of staff will be Gerard J. Mangone.

Fred G. Crawford, formerly budget and management officer of the United Nations Korean Reconstruction Agency in Korea, has joined the staff of the International Cooperation Administration as public administration advisor to the government of the Philippines in Manila.

Allan Dionisopoulos, lecturer in government at Indiana University, at the request of the radio and television department, conducted a series of six TV programs on "Issues of the Campaign" prior to the presidential elections.

Guy Howard Dodge, chairman of the department of political science at Brown University, will be on sabbatical leave during the second semester of the academic year 1956–57.

Laird J. Dunbar, assistant professor at the University of Colorado, has been granted a one-year leave of absence to work full time on the staff of the Colorado Survival Plan Commission.

Preston W. Edsall, head of the department of history and political science at North Carolina State College, has been elected to the executive council of the Southern Political Science Association. He is serving a two year term as chairman of the Wake County (N.C.) Board of Elections.

Richard A. Edwards of Lafayette College will continue on leave for the second semester of the year 1956–57 in Washington as director of research for the Commission on Government Security.

LeRoy C. Ferguson, professor of political science at Michigan State University, will be on leave full time during winter and spring terms to participate in the research project on legislatures financed by the Social Science Research Council.

Marguerite J. Fisher is on leave at the University of Delhi from the department of political science, Syracuse University, during this year.

Charles R. Foster is the second member of the department of government at Indiana University to receive a Congressional fellowship.

Esson M. Gale, director emeritus of the International Center at the University of Michigan and a former member of the political science faculty, will offer a lecture course on the United States and Asia in the graduate school of the Department of Agriculture at Washington, D. C. during the second semester of 1957.

Gilbert F. Gilchrist has resumed his duties in the political science department of the University of the South after two years as Fulbright Scholar at the University of London.

During the current academic year, William A. Glaser is on leave from his position as assistant professor of social science at Michigan State University, having been awarded a post-doctoral fellowship by the Social Science Research Council, which will be spent at the Bureau of Applied Social Research of Columbia University.

D. R. Grant of Vanderbilt University has been appointed associate director of the Harris County Home Rule Commission, Houston, Texas.

Lee S. Greene is on leave of absence from the University of Tennessee to serve as executive director of the Harris County Home Rule Commission, Houston, Texas.

Andrew Gyorgy lectured at the Naval War College, Newport, R. I., during the first semester of the present academic year. He was on leave from Boston University to which he returned for the second semester.

Charles B. Hagan of the University of Illinois has been appointed as lecturer in the University of Sydney, New South Wales, Australia, for 1957–58.

Jerome Hall of Indiana University lectured on "American Jurisprudence in the Twentieth Century" and other subjects at Dalhousie University, Halifax, Nova Scotia, October 22–24, and at Osgoode Hall Law School in Toronto on the 26–27 of October, 1956.

D. Lincoln Harter, assistant professor of political science, University of Pennsylvania, has been appointed director of the college session of the Shawnee Leadership Institute on World Problems. This intercultural, international institute will meet for its 23rd annual session at Wallingford, Vermont, August 24–31, 1957.

Samuel Hendel, of the government department at City College, is a visiting professor at Columbia University for the spring session.

George Hendricks is serving as acting head of the department of social sciences at Georgia Institute of Technology, 1956–57.

John H. Herz of City College has been appointed visiting professor at Columbia University to give a spring session course.

Abraham Holtzman of North Carolina State College gave a series of weekly programs over WUNC-TV under the general title "Election, 1956." He and his colleagues, Philip M. Rice, associate professor of history, and Clifford D. Clark, assistant professor of economics, are conducting a weekly television program on the Soviet Union over the same station during the second semester of 1956–1957.

Robert S. Lancaster has resumed his duties at the University of the South as dean of men and professor of political science after a year as Fulbright lecturer at the College of Arts and Sciences, Bagdad, Iraq.

Edward G. Lewis of the University of Illinois has been granted sabbatical leave for the second semester of this year to study in France.

George T. Little who has been on leave from the University of Vermont for a year teaching as professor of political science in the National Political University in Taipeh, Taiwan (Formosa), returned the first of February to resume his duties in the department of political science.

Norton E. Long, professor of political science and acting director of the Governmental Research Bureau of Michigan State University, will be on leave half time during the winter and spring terms to work on the Metropolitan Area Studies Program under the directorship of Luther Gulick.

Samuel J. Mantel, Jr., of the social sciences department of Georgia Institute of Technology, is on leave while serving as visiting professor and acting director of the Economics-in-Action program at Case Institute, Cleveland, Ohio.

With the assistance of a grant from Resources for the Future, Roscoe C. Martin, department of political science, Maxwell School, Syracuse University, is studying the public administration of water resources in New York State.

Howard F. Miller of the department of political science, Maxwell School, Syracuse University, is on leave serving as a legislative liaison officer with the Division of the Budget of New York State.

Norman Meller, chairman of the department of government of the University of Hawaii, spent the summer of 1956 on Guam and in the Marshall Islands, assisted by a TRIPP grant for research on the legislative process in the Pacific.

Phillip Monypenny is now on sabbatical leave from the University of Illinois.

Hans C. Morgenthau of the University of Chicago will give a series of lectures at the University of Madrid, Spain, during May, 1957.

Robert Osgood, assistant professor of political science at the University of Chicago, was visiting lecturer at the Salzburg Seminar in American Studies, Salzburg, Austria, during winter session, 1957.

Vincent Ostrom has returned to the University of Oregon following a year of study as a fellow at the Center for Advanced Study in the Behavioral Sciences at Stanford, California.

Norman D. Palmer, professor of political science, University of Pennsylvania, went to Pakistan in February, 1957, on an inspection trip to visit the Institute of Public and Business Administration at the University of Karachi, which has been established with the assistance of the Wharton School of Finance and Commerce of the University of Pennsylvania, under a contract with the International Cooperation Administration. Dr. Palmer is coordinator for this project. He also spent a few days in India visiting the Institute of Public Administration and the School of International Studies in New Delhi and observing the second general elections in India.

In his capacity as president of the National Council on Asian Affairs, Dr. Palmer helped to organize an "Asian Ambassadors' Dinner" at the Starlight Roof of the Waldorf Astoria Hotel in New York City on the evening of December 6, 1956. This dinner was sponsored by 13 Asian ambassadors (all of whom attended or were represented) and the National Council on Asian Affairs. Speakers were Chester Bowles and Paul G. Hoffman.

Daisy Parker has returned to the department of political science, Florida State University, following a year's leave of absence.

Spencer Parratt of the department of political science, Maxwell School, Syracuse University, is serving as consultant to the Division of Housing, Executive Department of New York State.

John M. Pfiffner, professor in the school of public administration at the University of Southern California, has been made an honorary life member by the Civil Service Assembly of the United States and Canada. This membership was presented to him at the fiftieth anniversary meeting of that group in Washington, D. C., October 7–12, 1956. Dr. Henry Reining, Jr., dean of the school of public administration at the same university, made the presentation.

R. Vance Presthus, associate professor of public administration at Cornell University, will take over the duties of the editor of the *Administrative Science Quarterly*, the quarterly journal of the graduate school of business and public administration.

Milton Rakove has been appointed as interim assistant professor of political and social sciences at the University of Florida.

Neil Reimer of Pennsylvania State University served as a member of the summer session staff at Cornell University during the past summer.

Claude Carson Smith has retired after twenty-seven years of service in the department of history and political science at the University of Nevada.

Ralph H. Smuckler, associate professor of political science, has returned to the department of political science in East Lansing after having spent 18 months as deputy chief advisor of Michigan State University's Technical Assistance Program in Vietnam.

Robert B. Stauffer, assistant professor of government at the University of Hawaii, is on sabbatical leave during the first six months of 1957.

Kurt Steiner of Stanford University presented a paper entitled "Ideological Competition in the Pacific Area" at the 33rd Institute of World Affairs held at Pasadena, California.

R. G. Steinmeyer will be on leave of absence from the department of government and politics of the University of Maryland during the spring semester to teach in its overseas program in the Far East.

Jess N. Swanson has been appointed as visiting associate professor of public administration and director of the International Public Administration Center, school of public administration at the University of Southern California. He is replacing Wayne W. Untereiner who is currently teaching at the Institute for Administrative Affairs, University of Tehran in Iran.

Carl B. Swisher of Johns Hopkins University has been invited to give the James Stokes Lectures at New York University on the subject "The Supreme Court in Modern Role." Former participants in this series, which has to do with fostering good government, include William Howard Taft, Don K. Price, Jr., and Ernest S. Griffith.

Glenn Tinder, assistant professor of government at the University of Massachusetts, is spending the academic year 1956–57 in Europe doing research.

John A. Toomey, instructor in politics at Marlboro College, was associated during the summer with the oral history department of Columbia University under the direction of Allan Nevins.

William G. Torpey, administrative adviser to the director of the Naval Research Laboratory and faculty member (part time) during the past 11 years at the George Washington University, has been borrowed by the President's National Committee for the Development of Scientists and Engineers for a three months staff assignment. The President appointed the committee recently to serve as an action group concerned with the education, training and utilization of scientific and engineering personnel.

Assistant professor Daniel W. Tuttle returned to the University of Hawaii in the spring of 1957 after a semester's sabbatical on the mainland.

John A. Vieg of Pomona College served as a member of the summer session staff at Cornell University the past summer.

Harvey Walker of Ohio State University, and Felix A. Nigro, formerly of the University of Puerto Rico, recently visited various Central American governments as part of the program of the Advanced School of Public Administration, San Jose, Costa Rica. Dr. Walker visited Honduras and Nicaragua to consult with government officials on the final phase of training of students of the last general course of the ESAPAC, and Dr. Nigro consulted with officials of the Guatemalan government for the same purpose, as well as giving a lecture on the "Modern Concept of Personnel Administration."

Norman Wengert, professor of government and politics, University of Maryland, has been appointed a member of the Maryland State Commission to study the problem of financing sanitary disposal systems to implement the state's clean stream policy.

Martin Wight of the London School of Economics has been appointed visiting professor at the University of Chicago for the autumn and winter quarters.

William R. Willoughby of the department of history and government of St. Lawrence University has returned to the university after having spent two years at the Institute for Advanced Study at Princeton, New Jersey.

George E. Wolff has returned to the University of Florida from a year's leave of absence in Chapel Hill, North Carolina under a Southern Fellowship grant.

Quincy Wright of the University of Chicago became emeritus in October, 1956, and is visiting research scholar at the Carnegie Endowment for International Peace in New York City for the year 1956–57.

Ronald Yalem has accepted an appointment as interim instructor of political science at the University of Florida.

APPOINTMENTS AND STAFF CHANGES

Herbert E. Alexander, formerly of the United States Chamber of Commerce research staff in Washington, has been appointed an instructor in the department of politics at Princeton University.

Luther Allen has been promoted to the rank of assistant professor of government at the University of Massachusetts. During the summer of 1956, he did research at the Institut d'Etudes Politiques in Paris. In addition to his duties at the University of Massachusetts, he will be teaching European government at Amherst College in the spring semester, 1957.

Robert P. Bolan, former budget officer of the state of Rhode Island, is now serving as assistant director of the bureau of government research, University of Massachusetts.

Henry C. Bush, formerly of Hunter College, has been appointed assistant professor of political science at Wayne State University.

J. Leo Cefkin, formerly lecturer at Hofstra College, has been appointed assistant professor of government in the department of history and government at Colorado A and M College, Fort Collins, Colorado.

Donald Clark, former director of the budget of the state of Indiana, has been appointed as lecturer in government and special assistant to the vice president at Indiana University.

Harlan Cleveland has been appointed dean of the Maxwell School of Citizenship and Public Affairs at Syracuse University.

Dean R. Cresap has been promoted to the rank of professor at San Jose State College. As a member of the City Council of Palo Alto, he attended the recent meeting of the League of California Municipalities.

Howard E. Dean has been promoted to the rank of associate professor of political science and has resumed his duties at the University of Oregon after a sabbatical year at the Harvard Law School as a Fellow of the Fund for the Advancement of Education.

Sebastian de Grazia returned in January from Europe where he was on a mission for the Department of the Army and most recently director of Metron, a firm of consultants in international social science research, to become lecturer in the department of politics, Princeton University.

Alfred Diamant has returned to the University of Florida after a year's leave of absence made possible by a Danforth Foundation teacher study grant. Upon his return, he was promoted to the rank of associate professor.

James R. Donoghue was promoted to professor of political science, University of Wisconsin.

Martin Dubin has been appointed lecturer in government at Indiana University's Calumet-East Chicago Center.

Frederick C. Engelmann has been promoted to associate professor at Alfred University.

John L. Fletcher was appointed assistant dean of the Boston University Graduate School and assumed his duties on September 1, 1956.

Edwin J. Forsythe, formerly of the University of Detroit, has become an instructor in the department of political science at Wayne State University.

Paul Fowler has been appointed instructor in government at Indiana University's Jeffersonville Center.

Stanley H. Friedelbaum, Rutgers University, has been promoted to assistant research specialist in the bureau of government research.

Louis L. Friedland has been promoted to the rank of professor of political science at Wayne State University.

George Goodwin, Jr., has been promoted to the rank of associate professor of government at the University of Massachusetts. During the summer of 1956, he engaged in research for the Massachusetts Commission on State-Local Relations.

George L. Grassmuck, of the American University of Beirut, Lebanon, has been appointed assistant professor of political science at the University of Michigan, effective in September, 1957.

Joseph Hampton, formerly of Rutgers University, has accepted an appointment as an instructor in government at the University of Massachusetts.

John S. Harris, formerly of the faculty of Wayne State University, has accepted an appointment as professor of government at the University of Massachusetts.

William C. Havard, upon his return to the University of Florida after a year's leave of absence spent at the London School of Economics under a grant from the Southern Fellowships Fund, was promoted to the rank of associate professor.

Edward J. Heubel, formerly of Reed College, has become an instructor in the department of political science at Wayne State University.

Dunning Idle is now professor of political science and acting head of the department of political science at Western College for Women, Oxford, Ohio. Previously Dr. Idle was a research director (social science analyst) for the D/Army, Office of the Chief of Psychological Warfare, at the Pentagon.

Franklin A. Johnson, formerly professor of government at Rollins College and state director of the Florida Citizenship Clearing House, has become president of Jacksonville University. The inauguration was Feb. 15th.

Eugene W. Jones has been appointed chairman of the division of social sciences of Wayland Baptist College with permanent status.

Earle H. Ketcham has been appointed chairman of the department of political science at the Maxwell School, Syracuse University.

Alvin Knepper, assistant professor of political science, has become head of the political science section at the Pennsylvania Military College.

Ernest D. Lehman, who is completing his work for the doctorate in political science at the University of Chicago, has been appointed instructor in government at Valparaiso University and will assume his duties in September, 1957.

IN MEMORIAM

Word has been received of the recent death of Oliver E. Norton of Washington University. Professor Norton got his Ph.D. at Stanford University. He taught at the College of the Pacific, 1921–1924; at Stanford University, 1924–1927; and joined the political science department at Washington University in 1927. In 1944, he was a member of the St. Louis Committee for Revision of the Missouri Constitution. He was a veteran of World War I, and during World War II gave a regular daily news broadcast over one of the St. Louis radio stations. His teaching was primarily in the field of political theory.

Rev. Moorhouse I. X. Millar, professor emeritus of political philosophy at Fordham University, died on November 14, 1956. He was seventy years of age. Before joining the Society of Jesus, Fr. Millar studied in France and Germany, and at Loyola College, Baltimore. As a Jesuit, he taught at Holy Cross, Canisius, and Georgetown; then joined the Fordham faculty in 1923. Here he established the political philosophy department, and headed it until three years before his death. Fr. Millar's written works included *Unpopular Essays*, *The State and the Church* (in collaboration with the late Msgr. John A. Ryan), and numerous periodical articles for *Catholic World*, *Modern Schoolman*, *Studies*, and *Thought*. His dominant interest was scholastic political theory and its links with early American thought.

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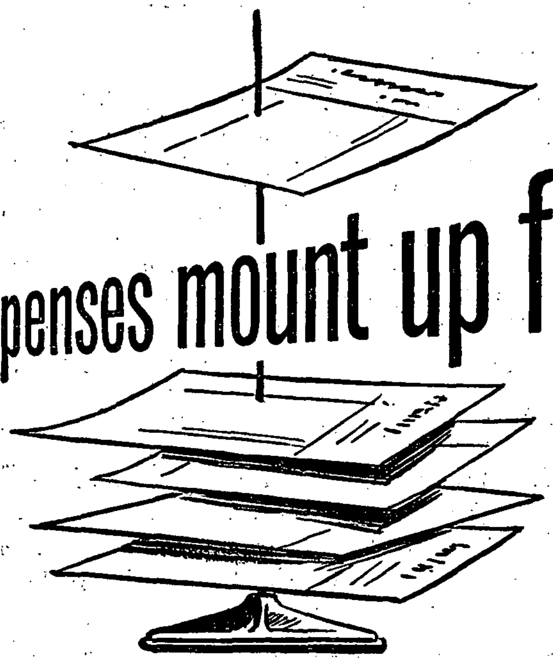

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